

**ZONING BOARD OF ADJUSTMENT
MEETING MINUTES OF OCTOBER 19, 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 19th day of October 2009 with the following members present:

David Cook	Chairperson
John Novelli	Vice Chairperson
Jeff Corbet	
Terence Sean Bajuk	
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 16th day of October 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 August 17, 2009: The meeting minutes were reviewed and were correct as written.

Special Exception Case X-061: Relief from the construction material of the carport (Sec. 5.2.A. (10) b

Applicant: Carol E. Sims

Description: The applicant is proposing to construct a 20'x20' metal carport with an 18' high pitched roof in the rear yard. 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. The City Council recently amended the zoning ordinance to permit relief from the construction material requirement upon receiving a Special Exception from the Zoning Board of Adjustment. As such, the applicant is not required to meet the strict criteria of a variance but may rather show merit that the relief is justified.

Variance Case V-064: A variance to allow the property owner to build a garage in the side yard of property (Sec. 4.1B (1)) b.

Applicant: Ken Kisner

Description: The applicant proposes to construct a new two-car garage on his property. He will be utilizing the existing driveway to access the existing garage as well as this new garage structure. The proposed new

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garage will be a masonry construction similar to the main structure. The applicant's lot is an irregular shaped lot, having a shortened rear yard, as is often the case with cul-de-sac lots. In order to locate the garage on the lot and provide walking space behind it, it will need to set partially in the side yard, which is in violation with Sec. 4.1.B (1) of the zoning ordinances. Because of the shape of the lot and the limited space provided in the rear yard the applicant is requesting a variance to permit the garage to set partially in the side yard.

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

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 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 August 17, 2009 regular meeting.

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Motion: Vice Chairperson Novelli made a motion to approve the meeting minutes of August 17, 2009, and were correct as written.

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

Ayes: Board Members Corbet, Bajuk, Vice Chairperson Novelli

Nays: None

Abstention: Chairperson Cook

Chairperson Cook declared the motion approved.

PUBLIC HEARING

2. Public hearing and consider and act upon Special Exception Case X-061, request of Carol Sims. The property address is 2312 Aquaduct Drive, Bedford, Texas; and is known as Lot 12, Block 3, Oakmont Addition. The special exception request is from the City of Bedford Zoning Ordinance, Section 5.2A, (10) b. The applicant is requesting a special exception to the material and design of a carport which must be comparable to that material located on the main structure. The property is generally located north of Pipeline Road and east of Central Drive.

Chairperson Cook recognized Consultant City Planner, Dan Boutwell who reviewed Special Exception Case X-061. Mr. Boutwell stated the applicant proposed to construct a 20'x20' metal carport with an 18' high pitched roof in the rear yard. The applicant requested relief from the construction material of the carport (Sec. 5.2.A. (10)b). Our current ordinances require the carport be constructed of comparable material to the principle structure, which was masonry.

The City Council recently amended the zoning ordinance to permit relief from the construction material requirement upon receiving a Special Exception from the Zoning Board of Adjustment. As such, the applicant was not required to meet the strict criteria of a variance but could merit that the relief is justified.

Pertinent Issues and Considerations

1. The documentation provided by the applicant indicates the carport would be located on the existing concrete surface. It appeared that location would be difficult to access with a vehicle since most of the structure was located behind the rear of the main structure. Since the request did not pertain to location but rather to construction material, the location was a moot point. The applicant would be required to meet all rear and side yard setback requirements regardless of what is shown on the drawings.
2. The size of this structure was significant. It was the size of a two-car garage, with an 18' pitched roof. A structure of this size would normally be expected to match the construction of the main structure.
3. Relief from the construction material requirement appeared to be largely due to financial hardship alone. Since this was a request for a Special Exception and not a Variance, the Zoning Board of Adjustment may consider the financial hardship when considering merit. It was important to note that in no way was the ZBA prevented from discounting significant financial hardship when determining merit.
4. Within this neighborhood numerous carports have been constructed which did not meet the construction material requirement. The relief from the ordinance requirement by Special Exception was not intended to be a license for metal structures within this area. Any and all relief should be determined on a case by case basis and without consideration

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of the precedent of pre-existing conditions. The existence of so many metal structures may certainly weigh in the ultimate decision.

Staff Conclusion

Although the applicant is not establishing a new practice with metal carports in this neighborhood, the opinion of staff is permitting metal construction of this size and nature would be contrary to the intent of the zoning ordinance. The proposed structure is significant in size, permitting a two-car access, as well as having a pitched roof.

Chairperson Cook recognized Carol Sims, 2312 Aquaduct Drive, Bedford, Texas who was there to represent this application. Ms. Sims stated the carport was a gable-metal structure, and it would be painted to match the house. The structure size was 20 ft. x 21 ft., the side walls were 7 ft. high, and it would be anchored to the ground. Ms. Sims stated she wanted the carport to be the size of the concrete pad that was in her back yard.

Chairperson Cook opened the public hearing and recognized Joy Monroe, 2308 Aquaduct Drive, Bedford, Texas who spoke in favor of this application.

Chairperson Cook closed the public hearing.

The Board discussed the application. The Board was concerned about the height of the structure. Mr. Boutwell stated the height requirement of an accessory structure was 25 ft. The concern was the structure shape because of the gable roof.

A noted concern was that the structure design be compatible and blend with the rest of the neighborhood that had the typical standard flat carport. Mr. Boutwell stated this requirement was applied city wide and in staff's point of view each case was weighed on its' own merit.

The Board noted the applicant was well below the height requirement. The concern was for the material. The Board asked if there were other structures of similar nature and size in the area. Mr. Boutwell stated there were other structures with the similar site located in that area.

The applicant complied with the specifications of the overall structure. The structure size of 20 ft. x 21 ft., a 7 ft. wall with corresponding gable was acceptable.

There were no further questions asked of the applicant.

Motion: Vice Chairperson Novelli made a motion to approve Special Exception Case X-061 with the **stipulation:** The structure match the color of the existing residence. The structure wall height be 7 ft. with corresponding gable height of 12 ft.

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

Motion approved 5-0-0.

Chairperson Cook declared the motion approved.

3. Public hearing and consider and act upon Variance Case V-064, request of Ken Kisner. The property address is 2900 Magnolia Court, Bedford, Texas; and is known as Lot 7, Block 9, Oak View Hills Phase II Addition. The variance request is from the City of Bedford Zoning Ordinance, Section 4.1.B (1) Use Regulations. The applicant is requesting a variance to allow the property owner to build an accessory structure (garage) in the side yard of the property. Section 4.1B (1)

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prohibits accessory structures to be in the required side yard or beside any principle structure so that it may appear to be in the front or side yard. The property is generally located north of Cummings Drive and east of Central Drive.

Chairperson Cook recognized Consultant City Planner, Dan Boutwell who reviewed Variance Case V-064. Mr. Boutwell stated the applicant proposed to construct a new two-car garage on his property. He will be utilizing the existing driveway to access the existing garage as well as this new garage structure. The proposed new garage will be a masonry construction similar to the main structure. The applicant's lot is an irregular shaped lot, having a shortened rear yard, as is often the case with cul-de-sac lots. In order to locate the garage on the lot and provide walking space behind it, it will need to set partially in the side yard, which is in violation with Sec. 4.1.B (1) of the zoning ordinances. Because of the shape of the lot and the limited space provided in the rear yard the applicant is requesting a variance to permit the garage to set partially in the side yard.

Pertinent Issues and Considerations

1. It appears the garage provides a limited area in the rear for workshop space. The dimensions on the floor plan indicate a 22'x22' garage space and a 22'x6' workshop. The outside length of the structure is 30' total. It appears the additional space for the workshop would be required to provide a rear entrance as shown, as well as space for the workshop. It does not appear that the size of structure is excessive for its use.
2. Significant rear yard space is provided on the opposite side of the main structure, there is no possible access to the rear yard from that side. It appears the shape of the lot prevents reasonable access to the open area on the opposite side.
3. The applicant does not provide a dimension on the rear of the property between the further most reach of the main structure and the rear property line. A scaled distance indicates approximately 26' to the edge of the 5' rear easement, providing for 31' total to the rear property line. Sufficient area is not available in the rear yard, at this location, for the proposed structure.

Staff Conclusion

- a. There is an existing garage within the main structure. Denial of this structure would not prevent the applicant from meeting the parking requirements of the zoning ordinance. The construction of this garage structure provided added amenity for this property.
- b. Regardless of whether or not the new garage is necessary to provide required parking for the property, the shape of the lot appears to significantly limit construction of improvements in the rear yard area. In our opinion a hardship is present that denies the applicant the reasonable use of this lot.

Chairperson Cook recognized Ken Kisner, 2900 Magnolia Court, Bedford, Texas, who was there to represent this application. Mr. Kisner stated he was representing the Mr. Berger, the property owner. He stated the current home did not have a garage and the site did not allow for the structure to be placed in another location that would be both functional and aesthetically appealing. The design of the garage was done in a manner that it was consistent with the architecture of the home and the site placement has been made with careful consideration to facilitate proper drainage and not create concern for the property owner or adjacent property owners. A professional architect was hired so this project could be designed to fit in well in the neighborhood. The garage would have full gutters, the brick would be similar to the house and it would be painted to match the house. There were two native trees located in the rear of the property. The property owner wanted to preserve the trees and that was why the garage setback in that nature.

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The Board was concerned with the drainage. Mr. Kisner stated the proposed location was a high, flat space, and would the run-off would be good.

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

The Board discussed the application. The Board stated this variance had reasonable grounds and was justifiable. It fit the spirit of the ordinance.

There were no further questions asked of the applicant.

Motion: Board Member Corbet made a motion to approve Variance Case V-064 because of the hardship presented by the house not having an existing garage; and the limitation that was presented by the layout of the lot.

Board Member Bajuk 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 6:48 p.m.

David Cook, Chairperson
Zoning Board of Adjustment

ATTEST:

Yolanda Diaz, Secretary,
Zoning Board of Adjustment