



MINUTES OF A CALLED MEETING OF THE
BOARD OF ADJUSTMENT
OF THE CITY OF SUNSET VALLEY, TEXAS
WEDNESDAY, DECEMBER 12, 2012
7:00 P.M.

MEMBERS PRESENT

Sandy Cox, Chair
Wade Buckner
Randall Rosengarten
Marshall McHone
Richard Hayes, Alternate

STAFF PRESENT

Clay Collins, City Administrator
Sara Wilson, Assistant City Administrator
Josh Ronson, Operations Manager
Willie Schmerler, City Attorney's Office

A-1: Call to Order.

Sandy Cox called the meeting to order at 7:00 P.M.

A-2: Approval of minutes from the September 12, 2012 meeting.

After reviewing the minutes and discussing a revision to agenda item 8, a motion was made by Randall Rosengarten and seconded by Wade Buckner to approve the minutes as amended for the September 12, 2012 meeting. All members voted in favor and the motion carried.

A-3: Public Hearing on an application submitted by ATS Engineers at 4910 HWY 290 West for variances from Section 2.804 of the Land Development Code to:

- a) exceed the maximum height of 35 feet allowed in the Neighborhood Commercial District to allow for a height of up to 45 feet, and
- b) allow a roof pitch of two (2) unit rise and twelve (12) unit run in lieu of the code requirement of a roof pitch of three (3) unit rise and twelve (12) unit run.

The Chair declared the Public Hearing to be opened. A brief presentation was made by Clay Collins. Rick Roberts with ATS made a presentation explaining the need for the two variances. Once the building was being designed, it was determined that with the parking area underneath the two story office building, it was not possible to keep the building under 35 feet without excavation which would be cost-prohibitive and would require significant revisions to the site plan and the water quality controls. The second variance to have a pitched roof with less slope was also due to the height limitations. Board members asked a number of questions regarding the variances previously granted and any options that might be available on this project. No one else appeared during the public hearing. The Chair closed the public hearing.

A-4: Consider action on an application submitted by ATS Engineers at 4910 HWY 290 West for variances from Section 2.804 of the Land Development Code to:

- a) exceed the maximum height of 35 feet allowed in the Neighborhood Commercial District to allow for a height of up to 45 feet, and
- b) allow a roof pitch of two (2) unit rise and twelve (12) unit run in lieu of the code requirement of a roof pitch of three (3) unit rise and twelve (12) unit run.

Following the Public Hearing, the Board members discussed the requested variances and how the findings might be met. There were some questions about the use and zoning of nearby properties. Clay Collins explained the current zoning and the Master Plan provisions of the various properties along Highway 290. During this discussion, Jean Wilkins, a resident of the Barton View neighborhood asked if she might address the board and made some comments regarding possible use of properties on Highway 290 and Stearns Lane.

A motion was made by Marshall McHone to approve the two variances from Section 2.904 of the Land Development Code to allow for a maximum building height of 45 feet and a roof pitch of two (2) unit rise and twelve (12) unit run at 4910 U.S. Highway 290 West. The motion included acknowledgment that the required findings had been met as documented by the applicant and that the variance was further conditioned by the drawings and representations provided to the Board. The motion was seconded by Randall Rosengarten. All members voted in favor and the variance was approved by a 5-0 vote.

A-5: Public Hearing on an application submitted by Clint and Sarah Smith for a variance at 761 Oakdale from Section 2.1302 to:

- a. encroach 4 feet into the side yard setback for construction of an accessory structure, and
- b. construct a volleyball court within the side and rear yard setbacks.

The Chair opened the Public Hearing. Clay Collins made a brief presentation of the two requested variances. Clint Smith explained to the Board the need and justification for the two variances. Donald Hurwitz, 757 Oakdale, addressed the Board and spoke in favor of the variances. Comment cards were received from other property owners in support of the variances. No comments opposing the variances had been received.

No one else was present to comment and the Public Hearing was closed.

A-6: Consider action on an application submitted by Clint and Sarah Smith for a variance at 761 Oakdale from Section 2.1302 to:

- a. encroach 4 feet into the side yard setback for construction of an accessory structure, and
- b. construct a volleyball court within the side and rear yard setbacks.

Following a discussion by the Board, a motion was made by Richard Hayes to approve the request for a variance at 761 Oakdale from Section 2.1302 to encroach 4 feet into the side yard setback for

construction of an accessory structure. The motion included a reference to the findings provided by the applicant and with the further stipulation that the variance is conditioned by the drawings and representations provided to the Board. The motion was seconded by Wade Buckner. All members voted in favor and the variance was approved by a 5-0 vote.

Following approval of the first variance request, a motion was made by Wade Buckner to approve the request for a variance at 761 Oakdale from Section 2.1302 to construct a volleyball court within the side and rear yard setbacks. The motion included a reference to the findings provided by the applicant and with the further stipulation that the variance is conditioned by the drawings and representations provided to the Board. The motion was seconded by Wade Buckner. All members voted in favor and the variance was approved by a 5-0 vote.

A-7: Public Hearing on an application submitted by Buy Buy Baby for a variance at 5400 Brodie Lane Suite 400 from the accessory structure requirements in Section 2.506 to allow for two Storage Containers within the Highway Commercial Zoning District

Clay Collins made a presentation on this item. Buy Buy Baby has two portable storage containers that have been placed in the parking lot. The Land Development Code does not have a provision for these types of containers, so in order for them to remain, the applicant has requested a variance.

Brian Wordell, Operations Manager with Buy Buy Baby explained the need for these storage containers as a part of the operation of the business. John Carter, with KIMCO Realty, expressed the support of the owner of the Market Fair shopping center to allow these containers. He stated that they do not plan to locate additional storage containers and the two that are being requested do not detract from the appearance of the center.

Board members asked questions of staff regarding provisions of the code and of the applicant regarding the use and plans for the containers.

No one else was present to comment and the Public Hearing was closed.

A-8: Consider action on an application by Buy Buy Baby for a variance at 5400 Brodie Lane Suite 400 from the accessory structure requirements in Section 2.506 to allow for two Storage Containers within the Highway Commercial Zoning District

Following a discussion by the Board, a motion was made by Randall Rosengarten to deny the request for a variance at 5400 Brodie Lane Suite 400 from the accessory structure requirements in Section 2.506 to allow for two Storage Containers within the Highway Commercial Zoning District. The motion was seconded by Richard Hayes. The motion was approved by a 4-1 vote, with Marshall McHone voting no. The variance request was denied.

A-9: Consider a recommendation to the Zoning Commission and City Council regarding an amendment to the Highway Commercial Zoning District to amend the lot dimensions.

The Board had discussed this at the September meeting and asked the City Attorney to bring back language to include as a recommendation to the City Council. The issue is that commercial lots less than 3 acres in size are required to go through the variance process even though the lots have been legally subdivided. The recommendation is to change the code so that any development on these lots would not have to obtain a variance for not meeting the minimum lot dimensions in the future. An

amendment to the Highway Commercial lot requirements was presented. A motion was made by Randall Rosengarten and seconded by Richard Hayes to recommend that the Zoning Commission and the City Council approve this change in the code. All members voted yes and the motion was approved by a 5-0 vote.

A-10: Report on City Council consideration of the recommendation from the Board regarding notice provisions for variance applications.

Clay Collins reported to the Board that the City Council had declined to take action on this request.

There being no other business coming before the Board, the meeting was adjourned at 9:15 P.M.


Sandy Cox, Chair