

BOARD OF ADJUSTMENT

June 12, 2007

STAFF:

John Gilliam, First Assistant City Attorney
Selso Mata, Chief Building Official
Anthony Han, Plan Review supervisor
Patti Hoffer, Code Compliance Representative
Tamra Beck, Sr. Administrative Assistant

PRESENT:

Chris Caso, Chairman
George Elwell
Chris Polito
Joe Milkes
Donnie Swango, Alternate

PRESENT NOT SEATED:

Cameron McCall, Alternate
William Suttle, Alternate

ABSENT:

Randy Hart
Mike Pirek, Alternate

A public hearing of the Board of Adjustment was called to order by Chairman Chris Caso on Tuesday, June 12, 2007 at 6:00 p.m. in the Building Inspections Training Room at the Plano Municipal Center. A quorum was present and notice of the meeting had been posted for the time and manner required by law. Chairman Caso swore in those persons planning on giving testimony before the Board.

1. Approval of Minutes: May 8, 2007

Mr. Chris Polito made a motion to approve the minutes May 8, 2007. Mr. Donnie Swango seconded. The motion was approved with a vote of 5/0.

2. Public Comments:

There were no public comments.

3. APPEAL #07-20Z FTK ADDITION, BLOCK A LOT 1: A request to vary subsection 2.819 (3) of the Zoning Ordinance number 2006-4-24 to reduce the 50-foot front yard setback along Pecan Lane to 15-foot.

The Board of Adjustment was given a letter from the applicant requesting to table this item until the July 10, 2007 meeting.

Chairman Caso opened the public hearing.

Ms. Patti Hoffer testified that this property is located at the Southeast corner of K Avenue and Pecan Lane. The lot width for this property along K Avenue is 104.91', however, due to street improvements, the property width will be reduced by 27 feet for a total width of 77.91'. The City of Plano is buying a portion of this property for right-of-way purposes.

Ms. Hoffer further testified that the applicant appeared before the Planning & Zoning Commission at their meeting held May 7, 2007. The stipulations of the hearing were approved subject to Board of Adjustment granting the variance to reduce the 50-foot front yard setback to 15-feet. Staff recommended approval of the requested variance.

Ms. Hoffer made a photo presentation of the property including an aerial view, and showing where the city right of way would be.

Chairman Caso asked staff about the status of the right of way. Would it be purchased or donated?

Mr. Selso Mata, Building Official stated that on the plat it is shown as area proposed for city right of way, I imagine it would be to enlarge the street.

Chairman Caso asked if the city is buying the land.

Mr. Mata answered, yes.

Chairman Caso admitted into the record the staff presentation, appeal summary, P&Z documents, drawings from the packet, and slide presentation.

Mr. Jim Goodman, applicant, testified that the request to table this item was due to the concerns of the homeowners. It being his intention to meet with the homeowners in the area to see if something could be worked out.

Mr. Goodman further testified that the plan would be for a building with office and interior warehouse space. There would be no outside storage.

Mr. Goodman further testified that the property is narrow and not build-able with the city setback requirements.

Ms. Elaine Cordner, property owner at 2112 E. Pecan Lane, testified that the applicant had not talked with the homeowners. The homeowners are opposed to this variance and were told in the past that there would never be a commercial driveway on Pecan Lane.

Ms. Cordner further testified that the homeowners never received notice from the City of Plano regarding the Planning & Zoning meeting.

Ms. Marjorie Stormer, property owner at 2021 E. Pecan Lane, testified that the homeowners did not know about the Planning & Zoning meeting, so they did not attend.

Ms. Stormer further testified that there is a drive way off of Avenue K. There is no reason to have another one off of Pecan Lane. The residents in this neighborhood have lived there and raised families for 35 years and want to keep the neighborhood the way it is.

Mr. Rick Fambro, real estate broker for the property owner, testified that the reason for the second driveway is for two points of access for fire protection. The applicant plans to build a nice building and screening wall on the property. It would compliment the neighborhood.

Ms. Sonja Hammer, resident of Plano, "(unsworn)", testified that most other commercial properties on Avenue K have entrances and exits along Avenue K and that another driveway would add to the sundry of traffic already at that intersection.

Mr. Joe Milkes made a motion to table appeal #07-20Z until the July 10, 2007 meeting. Mr. George Elwell seconded. The motion was approved with a vote of 5/0.

Chairman Caso entered into the record the request letter to table appeal #07-20Z, 2 letters from homeowners received by the city, staff presentation including the Planning & Zoning minutes and site plans.

4. APPEAL #07-21Z McCALL RETAIL ADDITION, BLOCK A, LOT 1: A request to vary subsection 2.820 (3), 4.704 (1) and 4.705 of the Zoning Ordinance number 2006-4-24 to:

- a. reduce the 50-foot front building line setback to 30-feet.**
- b. reduce the 75-foot rear yard building line setback to 0-feet.**
- c. reduce the 30-foot landscape edge to 10-feet.**
- d. allow the required underground electrical lines to be installed overhead.**

Chairman Caso opened the public hearing.

Ms. Patti Hoffer testified that this property is located at the northwest corner of Alma & Plano Parkway. An alley separates this lot from a surrounding residential area. The reduction of the front and rear yard setback would allow a development of retail uses within the zoning district and would be consistent with the adjacent properties.

Ms. Hoffer further testified that the applicant appeared before the Planning & Zoning commission at their meeting held October 16, 2006. The stipulations of the hearing were approved subject to: a) The Board of Adjustment granting the variances to the front yard setback, rear yard setback and the landscape edge; and b) The applicant placing the overhead electrical lines underground as required by the State Highway 190/Plano Parkway Overlay district. Staff recommended approval of the requested variance.

Ms. Hoffer showed a slide presentation showing the site plan, aerial overview and photos of the property from all directions.

Ms. Cheryl Williams, representing the applicant testified that request (a) to reduce the 50-foot front building line setback to 30 feet would allow the placement of dumpsters. The building would meet the 50-foot setback.

Ms. Williams further testified that request (b) to reduce the 75-foot rear yard building line setback to 0 feet. A 0-foot setback is typical for retail development separated from a residential development with an alley. The 75-foot setback for this property relates to Commercial Corridor standards which were written for larger properties with multi-story buildings. That is where you get the height ratio.

Ms. Williams further testified that request (c) to reduce the 30-foot landscape edge to 10 feet. This would enable adequate parking.

Ms. Williams further testified that without the variances this property is impossible to develop. It would have approximately 1035 feet of space for the building, parking, and dumpsters.

Ms. Williams further testified that request (d) to allow the overhead utility lines to remain. This intersection has a lot of visual clutter and eliminating a single pole from the corner is not going to make a significant change. Ms. Williams gave a photo to the Board showing the electric pole and other visual clutter.

Ms. Williams further testified that the intent of the ordinance is not well served, this is a unique condition that was not the result of the applicants own actions.

Chairman Caso admitted into the record the photo submitted by Ms. Williams, the staff presentation, documents and report.

Mr. Lloyd Yarnell, property owner at 1206 Quill Drive testified that he has lived in this home for 40 years. His back yard faces this property.

Mr. Yarnell further testified that Mr. McCall purchased this property and immediately began trying to get variances.

Mr. Yarnell imagined that a two story building with parking underneath would be built on this property. Not a building that is up against his back yard.

Mr. Rick Fambro, real estate broker who sold the property to Mr. McCall 20 plus years ago testified that at that time the property was zoned "Neighborhood Service" and Mr. McCall had planned to build the offices for McCall Insurance Agency.

Mr. Fambro further testified that the City did away with "Neighborhood Service" zoning and at that time took this piece of property and lumped it in with the same Planned Development zoning ordinance as Collin Creek Mall.

Mr. Fambro further testified that this piece of property has never had a variance request with the Board of Adjustment. There was a zoning case. A couple years after Mr. McCall bought the property

the bottom fell out of the banking, savings and loan business and an opportunity presented itself to sell this property to the Circle K convenience store people. Unfortunately, the zoning allowed for the retail office, but would not allow anything of an automotive related nature. The city did not have a problem with Circle K being there, but would not allow the gas pumps.

Mr. Fambro further testified that the city changed the zoning again to Corridor Commercial and the overlay district which is what is zoned today. Basically, the hardship is the evolving process of the zoning of this piece of property.

Chairman Caso closed the public hearing.

Mr. Donnie Swango stated that he agreed with the homeowner Mr. Yarnell in a lot of respects. In reading the application they want to take the entire lot and change it strictly to a commercial venture. When you go 50 foot to 30 foot and 75 foot to zero foot and reducing the 30 foot landscape edge to 10 foot, you have completely obliterated what the city had set up for restrictions on this property.

Mr. Swango further stated that there is a mall across the street, some vacant property next to that. Think about the City of Houston which has no zoning and it does not matter where a person builds a house, he can build it with the hopes to have a good place to live and someone comes along and wants to put up a building ten foot from your backyard. He had a problem with that for the homeowners.

Mr. Swango further stated that this property was bought with an insurance agency or a filling station in mind. It was bought knowing that it was a little piece of property that really did not fit a building, not if it was going to be build within the limits set by the city.

Mr. Swango further stated that it was his feeling that it was overkill on this property which would take away from the aesthetics that could be there. A little park could be build there, make it a green zone. But, Putting a building there and taking away all these setbacks to virtually zero or minimum is a travesty to the homeowners, to the intersection and to the aesthetics of the city.

Mr. Swango further stated if you take away one utility pole with the wires, maybe that is an issue, but it is a beginning and if any other building takes place down Alma, they will have to move theirs as well. You have to start somewhere.

Mr. Joe Milkes asked staff what the thought process was for recommending approval.

Mr. Mata answered that the primary reason was reviewing the Planning & Zoning recommendations. Each of the recommendations had suggested something on each of the setbacks. The only request that they upheld was for the underground utilities. We basically were reinforcing what they had already studied.

Mr. Joe Milkes made a motion to approve Appeal #07-21Z items #a, #b and #c as requested, and to deny item #d. Mr. George Elwell seconded. The motion was approved with a vote of 4/1 with Mr. Donnie Swango casting the dissenting vote.

5. APPEAL # 07-22Z 6560 BRIAR RIDGE LANE: A request to vary subsection 2.808 (3), 3.204 (6) of the Zoning Ordinance number 2006-4-24 to allow an arbor to encroach 10-foot into the required 15-foot building line.

Chairman Caso opened the public hearing.

Ms. Patti Hoffer testified that this property is located at the southeast corner of Shoal Forest Drive and Briar Ridge Lane, south of Whispering Creek. The applicant is proposing to construct a 280 square foot arbor within the 15-foot building line and utility easement; approvals from utility companies have been provided. The proposed arbor will be encroaching 10 feet into the required 15-foot building line setback and will be 23 feet length x 12 feet width and 11 feet in height.

Ms. Hoffer further testified that the arbor will not be attached and will be constructed 12 inches from the main structure which will meet the setback requirement to the main structure. An application was

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received in Building Inspections for the proposed arbor; denied due to the 15-foot building line and utility easement.

Ms. Hoffer showed a slide presentation with aerial view and surrounding area, site plan and construction detail plans.

Chairman Caso admitted into the record the 24x36 inch drawing, staff presentation, staff report, utility company letters, small drawing, site plan and notification provisions.

Mr. Brennan Knott, landscaper representing the applicant testified that the applicant had obtained approval letters from all of the utility companies and the Homeowners Association. All the surrounding property owners have been spoken to and they have no objection.

Ms. Diane parry, the applicant "(unsworn)", testified that the home was built approximately seven years ago, and she purchased it about one year ago. The small side yard is unusable space in the summer months due to extreme heat.

Chairman Caso closed the public hearing.

Mr. Donnie Swango made a motion to approve Appeal #07-22Z as presented. Mr. Chris Polito seconded. The motion was approved with a vote of 4/1. Chairman Caso casting the dissenting vote.

6.

OTHER BUSINESS

Discuss the Board of Adjustment Report to Council for June 25, 2007

There being no further business, the meeting was adjourned at 7:40 p.m.

Chris Caso, Chairman