



BOARD OF ADJUSTMENT REGULAR MEETING MINUTES
April 9, 2024 8:30 a.m.

BOARD OF ADJUSTMENT OF THE CITY OF ABILENE, TEXAS
CITY HALL COUNCIL CHAMBERS, 555 WALNUT STREET, ABILENE

Members Present: Ms. Shawnda Rixey, Chair Pro Tem
Ms. Joy Ellinger
Melissa Sparks, Sergeant at Arms
Mr. Bob Thomas, Alternate
Mr. Chip Whitlock, Alternate

Members Absent: Mr. Jon Loudermilk, Chair Mr. Louis Zientek, Secretary

Staff Present: Mr. Michael Rice, Assistant City Manager
Ms. Kelley Messer, First Assistant City Attorney
Mr. Tim Littlejohn, Director
Mr. Randy Anderson, Assistant Director
Mr. Adam Holland, Planner II
Ms. Mason Teegardin, Planner I
Ms. Kiley Hannah, Planner I
Ms. Melissa Farr, Executive Assistant

Others Present: Mr. Harley Hall Mr. Kirby Milliorn
Mr. Grant Abston Mr. Craig Young
Mr. Zach Sitzes Ms. Amy Sitzes
Mr. John Jenkins Mr. John Kritser
Mr. Wes Roberts Mr. Bryce Davis

CALL TO ORDER

The meeting was called to order at 8:31 a.m. and Ms. Melissa Farr recorded the minutes. A quorum was present, and the meeting proceeded.

ELECTION OF OFFICERS

Ms. Ellinger nominated Mr. Jon Loudermilk to serve as the Board Chair. Ms. Rixey seconded the motion.

AYES: Thomas, Ellinger, Whitlock, Sparks, Rixey
NAYS: None

Mr. Whitlock nominated Ms. Shawnda Rixey to serve as the Board Chair Pro Tem. Ms. Ellinger seconded the motion.

AYES: Thomas, Ellinger, Whitlock, Sparks, Rixey
NAYS: None

Ms. Ellinger nominated Mr. Louis Zientek to serve as the Board Secretary. Ms. Sparks seconded the motion.

AYES: Thomas, Ellinger, Whitlock, Sparks, Rixey
NAYS: None

Ms. Ellinger nominated Ms. Melissa Sparks to serve as the Board Sergeant at Arms. Mr. Whitlock seconded the motion.

AYES: Thomas, Ellinger, Whitlock, Sparks, Rixey
NAYS: None

EXECUTIVE SESSION

The Board went into executive session to receive legal advice regarding the authority of the Board and statutory requirements at 8:40 a.m. The Board reconvened the meeting at 9:14 a.m.

MINUTES

The public hearing was opened. Seeing no one present and desiring to be heard, the public hearing was closed. Mr. Thomas made the motion to approve the minutes from the regular meeting held on February 13, 2024. Mr. Whitlock seconded the motion. The motion to **approve** the minutes prevailed by the following vote:

AYES: Thomas, Ellinger, Whitlock, Sparks, Rixey
NAYS: None

AGENDA ITEMS

BA-2024-04: Receive a Report, Hold a Discussion and Public Hearing, and Take Action on a request from Bryce Davis for a Variance to allow for a 0' front setback (25' required) and to allow for a 17' rear setback (25' required) located at 1326 Walnut Street

Ms. Mason Teegardin presented this request. The applicant is requesting a variance to allow a 0' front setback (25' required) to match the existing buildings on the lot to the south. The applicant is also proposing a 17' rear setback (25' required) to allow for maximum storage of lumber. The variances would maintain the general look and feel of the existing buildings.

Ms. Rixey opened the public hearing. Mr. Bryce Davis stepped forward to explain the request. He recently purchased City Lumber, and is proposing a building to store lumber. Seeing no one else present and desiring to be heard, the public hearing was closed.

Property owners within a 200-foot radius of the property address were notified. There were no (0) responses received in favor, nor in opposition.

Ms. Ellinger moved to **approve** this request based upon the findings of the staff report; however, the hardship is that the applicant would not be able to maintain the character of the traditional commercial area if the request were not approved. Mr. Thomas seconded the motion. The motion to approve prevailed by the following vote:

AYES: Thomas, Ellinger, Whitlock, Sparks, Rixey

NAYS: None

BA-2024-05: Receive a Report, Hold a Discussion and Public Hearing, and Take Action on a request from JKK Properties, LP for a Variance to allow for a 10-foot setback (50 foot is required) along the rear property line for an accessory structure located at 2598 EN 10th Street. The applicant is also requesting a variance for an alternative plan for calculating the points required for the landscaping buffer along the east north and south west interior side property lines.

Ms. Kiley Hannah presented this request. The property is undeveloped that was recently rezoned from Agricultural Open (AO) to Heavy Commercial (HC). The Planning and Zoning Commission approved the plat of the subject property on April 2, 2024. The site plan to construct a facility for the sale, lease, servicing, and display of heavy equipment is pending the outcome of this request.

A Type B Buffer is required between Heavy Commercial (HC) and a residential zoning district. The buffer yard requires a score of at least 25 points based on the point system set out in Section 4.2.4.2 of the Land Development Code. The request is to allow an alternative buffer plan to satisfy the intent Land Development Code.

Ms. Rixey opened the public hearing. Mr. John Jenkins stepped forward to share drawings of the building and the site plan with landscaping.

Property owners within a 200-foot radius of the property address were notified. Five (5) responses were received in favor with none (0) in opposition.

Buffer Requirement Variance:

The irregularly long lot calls for a large amount of buffer yard due to the west property line abutting a potential residential use being an Agricultural Open (AO) zoning district, causing a potential hardship.

The irregular lot shape and depth of the subject property was expressly platted into this form by the applicant. As a result, the hardship was partially self-created. The applicant has provided an Alternate Plan to mitigate the effects of the proposed variances.

Ms. Ellinger moved to **approve** the landscape buffer based upon the findings of the staff report. Mr. Thomas seconded the motion. The motion to approve prevailed by the following vote:

AYES: Thomas, Ellinger, Whitlock, Sparks, Rixey
NAYS: None

Setback requirement Variance:

The irregular lot shape and depth of the subject property was expressly platted into this form by the applicant. As a result, the hardship was self-created. The applicant has provided an Alternate Plan to mitigate the effects of the proposed variances.

Ms. Sparks moved to **approve** based upon the irregularity of the land in addition to the findings of the staff report. Mr. Whitlock seconded the motion. The motion to approve prevailed by the following vote:

AYES: Thomas, Ellinger, Whitlock, Sparks, Rixey
NAYS: None

BA-2024-06: Receive a Report, Hold a Discussion and Public Hearing, and Take Action on a request from Karon Bingaman and Harley Hall for a Variance to allow for an additional 5' 6" in height, for a carport that was built to 17' 6" (12' allowed) located at 3834 Kady Ridge. An additional Variance is required for a 5' street side setback (8' required).

Ms. Kiley Hannah presented this request. The applicant is requesting a carport height variance in order to cover a recreational vehicle. The subject carport would be located on an irregularly shaped corner lot and the existing fence limits the availability of locations to build a carport to cover the RV.

Ms. Rixey opened the public hearing. Mr. Cole Massey stepped forward to describe more detail about the request. Mr. Harley Hall also stepped forward to clarify his conversation with the homeowner's association president and vice-president for their review before building.

Property owners within a 200-foot radius of the property address were notified. Four (4) responses were received in favor with none (0) in opposition.

Mr. Whitlock made the motion to **approve** this variance request based upon the findings by staff in the report. Ms. Ellinger seconded the motion. The motion to approve prevailed by the following vote:

AYES: Thomas, Ellinger, Whitlock, Sparks, Rixey
NAYS: None

BA-2024-07: Receive a Report, Hold a Discussion and Public Hearing, and Take Action on a request from Zach Sitzes, represented by Grant Abston, for a Variance to allow for a rear setback of 16', where 30' is required located at 2334 Innisbrook Drive

Ms. Mason Teegardin presented this request. The homes on Innisbrook Drive were constructed at a time when the required rear setback was 25'. Using rear setback averaging, the average rear setback of the homes on the same side of Innisbrook Drive is 25', meaning the required rear setback can be reduced administratively to 25'. The applicant requests a 16' rear setback.

Ms. Rixey opened the public hearing. Those who stepped forward to speak were Mr. Grant Abston, Mr. Zach Sitzes, and Mr. Kirby Milliorn.

Property owners within a 200-foot radius of the property address were notified. There were no (0) responses received in favor with one (1) in opposition.

Ms. Ellinger made the motion to **approve** based upon the findings of the staff report with the exception of the hardship being the unusual lot size and HOA requirements for consistency within the neighborhood. Mr. Whitlock seconded the motion. The motion to approve prevailed by the following vote:

AYES: Thomas, Ellinger, Whitlock, Sparks, Rixey

NAYS: None

BA-2024-08: Receive a Report, Hold a Discussion and Public Hearing, and Take Action on a request from SignTex for a Variance to allow a separation of 90-feet from an existing off-site advertising (billboard) sign on the same side of the street (a 250-foot separation required) and a 90-foot radial separation from an existing off-site advertising sign (a 750-foot radial separation is required) located at 2479 S. Treadaway Boulevard

Mr. Adam Holland presented this request. The property owner proposes to place a small (6' x 8') LED off-site advertising sign on the front of their building. The sign was previously placed on Barnard's Refinishing and has been proposed to be moved at the request of staff.

Ms. Rixey opened the public hearing. Mr. Wes Roberts stepped forward to speak. Seeing no one else present and desiring to be heard, the public hearing was closed.

Property owners within a 200-foot radius of the property address were notified. There were no (0) responses received in favor with none (0) in opposition.

STAFF RECOMMENDATION: If the Board approves the variances, staff would recommend that the following condition of the approval be included:

The sign owners contact information shall be printed on the sign so they may be reached to address any problems with brightness or malfunctions.

Ms. Sparks made the motion to **approve** this request based upon the findings in the staff report, with the exception that the current LDC does not address signs of this nature being a hardship. Additionally, the shape of the property does not allow the necessary distance of a 250' setback. Mr. Thomas seconded the motion. The motion to approve prevailed by the following vote:

AYES: Thomas, Whitlock, Sparks, Rixey

NAYS: None

(Ms. Ellinger left the meeting at 10:44 a.m.)

ADJOURNMENT

There being no further business, the Board of Adjustment meeting was adjourned at 10:46 a.m.

Approved:  _____, Chair Pro Tem