



**Meeting Minutes
Board of Adjustment**

Thursday, December 3, 2020

5:00 PM

Via Video Conference

4:30 - 5:00 PM - Work Session for Agenda Review

Chairman Moore opened the work session at 4:31 PM.

Patrick Baugh, Community Development Director, presented case BOA 20-004 via PowerPoint. The applicant's variance request, the definition of a porte cochere and carport, the code for side-street and rear-yard setbacks, the setback diagrams, the building approved plans, the satellite view of the existing lot, and photos of the current construction phase were explained and displayed.

Rob Dillard, City Attorney, questioned if the carport has a door opening on the alley side. Mr. Baugh clarified there are no doors and it serves as a drive through carport and explained the reason for the twenty foot (20') setback.

Mr. Dillard suggested one condition; prohibiting a door on the alley side of the carport at any time.

Board Member Francisco questioned if the carport would be classified as a garage if a wall were proposed on the side of the carport that faces the alley. Mr. Baugh answered that garages and carports have the same setback requirement in the current zoning ordinance, therefore it has not effect on the variance outcome.

Mr. Dillard answered that a classification type does not effect a special condition.

Chairman Moore asked for staff to confirm the accuracy of the timeline provided by the applicant. Mr. Baugh confirmed this is a good general timeline.

Board Member McKeithen questioned if there is a need to clarify the wording of the current zoning ordinance. Mr. Baugh stated Section 7.2.3. could use a better order of sentences, which he plans to bring attention to the Planning and Zoning Commission and City Council.

Chairman Moore asked for clarification as to what type of rear opening was approved on the building plans. Mr. Baugh stated it was always intended to be an opening without a door.

The work session closed at 4:55 PM.

Call to Order

Chairman Moore called the meeting to order at 5:01 PM.

Introduction of Board Members

Present: 5 - Chairman Eddy Moore, Eurico Francisco, Jeff Barnes, Ann Shaw and Dan McKeithen

Excused: 2 - Clay Snelling and Bobby Womble

Seated: 3 - John Jackson, Darrell Lane and Duncan Fulton

Staff in Attendance

Patrick Baugh, Community Development Director
Jessica Rees, City Planner
Serena Palomino, Planning Technician
Rob Dillard, City Attorney

The Board of Adjustment of the City of University Park will conduct a public hearing virtually via GoToMeeting. Consideration will be given to the following item(s):

[BOA 20-004](#)

Rob Grasso with Ellen Grasso & Sons, representing property owners Jim and Suzanne Duda, requesting a variance in regards to the required side street-yard setback and rear setback for a detached structure. The subject property is located at 3928 University Boulevard and zoned Single Family, SF-2 zoning district.

Chairman Moore requested that the applicant present their case.

Bill Dahlstrom, with Jackson Walker LLP representing Jim and Suzanne Duda, presented this case via PowerPoint. He explained and displayed the timeline from submittal date to current, the approved building plans, Section 9.7.1 on intent of variances, and Section 9.7.7 on variance standards and review criteria.

Suzanne Duda, 3928 University, thanked the Board and stated their intention was to work closely with their contractor and City staff to make sure this project was code compliant. Mrs. Duda addressed the letter of opposition received in the summary of responses report regarding safety concerns. She stated they have worked closely with their neighbors and have received one specific suggestion, which is to install a safety mirror.

Mr. Dahlstorm stated they agree to the special condition mentioned in the work session in regards to prohibiting a door or wall at the edge of the alley.

Chairman Moore asked the Board if they have any questions for the applicant. With no questions for the applicant, Chairman Moore requested that City staff approach the Board.

Mr. Baugh stated safety mirrors can be applied as a special condition, but the mirrors are managed by the Public Works Department. He proceeds to present case BOA 20-004 via PowerPoint. The applicant's variance request, the definition of a porte cochere and carport, the code for side-street and rear-yard setbacks, the setback diagrams, the building approved plans, the satellite view of the existing lot, and photos of the current construction phase were explained and displayed.

Chairman Moore opened the public hearing for those to speak in favor at 5:36 PM.

Michelle Hall, 3913 Glenwick, stated her and her husband have no issue with the Duda project and are happy they are maintaining the character of the residence. Mrs. Hall would disagree if they would have to restart this project since it would lengthen the construction timeline.

With no one else to speak in favor, Chairman Moore opened the public hearing for those in opposition.

Dallas Cothrum, 6700 Golf who is representing Lou & Susan Lebowitz at 3918 University, does not agree that this lot fits the hardship classification nor that staff's error amounts to be granted special conditions. Mr. Cothrum stated Section 9.7.7 and explained his interpretation. He expressed the proposed side yard setbacks will affect cars and pedestrians, they are benefiting more interior yard and coverage and he feels there is a safety issue regarding the carport having access to the alley. He stated Mr. Lebowitz does not believe there is a property hardship, but this has been inflicted on them. Mr. Cothrum believes the applicant is asking for relief as a result of the error and the code does not provide that in this instance.

Mr. Dahlstorm stated no opposition letters were received from surrounding properties facing the garage, the alley access is not changing from the exiting condition, the corner visibility requirements are met, special conditions do exist in this case and there are several responses from neighbors who are in support.

Chairman Moore asked for confirmation that the building plans approved in March of 2020 display no door facing the alley. Mr. Dahlstorm confirmed this is correct.

Board Member Barnes questioned if Mr. Cothrum's client is interested in the carport having no alley access or being walled off. Mr. Cothrum confirmed.

Mr. Dahlstorm stated this would cause the property owners to back out onto Westwick Road, causing a worse situation traffic wise. The current approved building plans comply with safety regulations. Mr. Dahlstorm stated they have suggested more screening and additional landscaping along the wall, but it is difficult to take the alley access away. They agree to installing a safety mirror and trimming back the hedges.

Board Member Shaw asked for clarification on the intent for the carport and alley access. Mr. Dahlstorm replied the intent would be to come from Westwick Road, drive through the carport to the alley and exit the alley.

With no further questions to the applicant, Chairman Moore closed the public hearing at 5:54 PM.

Board Member Francisco expressed that this situation is a series of unfortunate events, but this is essentially a setback violation more so than anything else.

Board Member Barnes questioned if backing out into Westwick Road rather than the alley is indeed more dangerous. Mr. Baugh stated this would be determined by the driver and driver's attention.

Board Member Barnes questioned if Westwick Road is a busy street as University Boulevard. Mr. Baugh confirmed and also stated safety mirrors are helpful.

With no further questions to staff or comments amongst Board Members, Chairman Moore closed the discussion.

A motion was made by Chairman Moore, seconded by Board Member Barnes, that this variance be granted with two (2) special conditions; a safety mirror be installed in the alley way and prohibiting a door on the alley side of the carport at any time. The motion carried by a unanimous vote.

Consider the previous meeting minutes with or without corrections:

[20-188](#)

Minutes from the Board of Adjustment meeting dated September 22, 2020.

A motion was made by Chairman Moore, seconded by Board Member Francisco, that the Minutes be approved. The motion carried by unanimous vote.

ADJOURNMENT: With there being no further business before the Board, Chairman Moore adjourned the meeting at 6:04 PM.

Approved by:

Chairman Eddy Moore

Date