

Board of Adjustment December 13, 2011

Present

Michael Pirek, Chairman
Carolyn Kalchthaler
Ed Stankunas
Henry Pauly
Steven Patten
Peter Krause, Alternate, not seated
Mark Godfrey, Alternate, not seated

Staff

Victoria Huynh, Deputy City Attorney
Selso Mata, Building Official
Cliff Bormann, Assistant Building Official
Patti Hoffer, Code Compliance Representative
Diana Casady, Sr. Administrative Assistant

A public hearing of the Board of Adjustment was called to order by Chairman Mike Pirek on Tuesday December 13, 2011 at 3:00 p.m. in the Council Chamber of the Municipal Center. A quorum was present and notice of the meeting had been posted for the time and manner required by law. Chairman Pirek admitted all records and testimony given into the official Board of Adjustment record.

Below is a summary of the actions taken under each of the posted item.

1. Public comments: **There was no public comment.**
2. Approval of Minutes from October 25, 2011

Board member Carolyn Kalchthaler made the motion to approve the minutes from October 25, 2011. Board Member Ed Stankunas seconded the motion. The Board voted 5/0 to approve the meeting minutes from October 25, 2011.

3. **APPEAL # 11-23Z 6608 RUTHERFORD ROAD:** A request to vary Subsection 2.809 (4) (b) and 3.1103 of the Zoning Ordinance number 2006-4-24 to allow an existing single family dwelling a front entry garage and reduce the 20 feet parking requirement to 10 feet. This appeal is requested by property owner Bruno Pasquinelli.

Patti Hoffer, Code Compliance Representative, gave a presentation on the properties located on Rutherford Road and answered questions from the Board.

Selso Mata explained to the Board what brought these properties before the Board today. Mistakes were made in approving the site plans with front entry garages. Changes in Building Inspections Department have led to Plans Examiners and Building

Inspectors assuming more duties and reviewing house plans. There is no concern regarding the safety of these homes. The only issue is the placement of the front entry garages and the infringement on the front yard setback requirements. The only logical recourse at this time is removing the standard sidewalk and direct pedestrian traffic to the greenbelt across the street from this property. Ramps will be built to comply with requirements under the Americans with Disabilities Act (ADA).

Kirk Williams, representing CB Jeni's Homes, testified that this was not a subdivision they had developed originally. This subdivision was already built and because the former developer went into default, CB Jeni purchased some of the lots in the subdivision. The plat was completed when they purchased the development; it was platted with 10 foot front yard setbacks and 20 foot rear setbacks. It was designed by the original builder for rear entry garages. All seven homes are sold, with owners waiting for their homes to be finished. The only alternative is to tear down the houses. The Engineering Department agreed they could remove the sidewalks providing they provide the ADA roll over curbs to get across the street. With the waiver of the sidewalk, they will meet the 20 foot length minimum for the parking space.

Bruno Pasquelli testified that the town home subdivision started about five years ago and failed during the downturn. This subdivision has both front and alley garages. With not much capital, he could only build one model and he chose to build the front entry garages. These units are all sold and they plan to move in before the end of the year. They considered alternate floor plans, but nothing worked.

Mr. Williams testified that they discussed about having parking pads in the rear with the City; however, it was decided that this would not be a good plan as people would park in the driveway anyway.

Chairman closed the public comments.

After hearing testimony, Carolyn Kalchthaler made the motion to approve Appeal #11-23Z, Ed Stankunas seconded the motion. The Board voted 5/0 in favor of granting the variance request.

- 4. APPEAL # 11-24Z 6612 RUTHERFORD ROAD:** A request to vary Subsection 2.809 (4) (b) and 3.1103 of the Zoning Ordinance number 2006-4-24 to allow an existing single family dwelling a front entry garage and reduce the 20 feet parking requirement to 10 feet. This appeal is requested by property owner Bruno Pasquelli.

This appeal has similar facts as Appeal #11-23Z. Refer to summary under that Appeal for additional information. Carolyn Kalchthaler made the motion to approve Appeal #11-24Z, Ed Stankunas seconded the motion. The Board voted 5/0 in favor of granting the variance request.

- 5. APPEAL # 11-25Z 6616 RUTHERFORD ROAD:** A request to vary Subsection 2.809 (4) (b) and 3.1103 of the Zoning Ordinance number 2006-4-24 to allow an existing

single family dwelling a front entry garage and reduce the 20 feet parking requirement to 10 feet. This appeal is requested by property owner Bruno Pasquinelli.

This appeal has similar facts as Appeal #11-23Z. Refer to summary under that Appeal for additional information. Carolyn Kalchthaler made the motion to approve appeals #11-25Z, Ed Stankunas seconded the motion. The Board voted 5/0 in favor of granting the variance request.

6. **APPEAL # 11-26Z 6620 RUTHERFORD ROAD:** A request to vary Subsection 2.809 (4) (b) and 3.1103 of the Zoning Ordinance number 2006-4-24 to allow an existing single family dwelling a front entry garage and reduce the 20 feet parking requirement to 10 feet. This appeal is requested by property owner Bruno Pasquinelli.

This appeal has similar facts as Appeal #11-23Z. Refer to summary under that Appeal for additional information. Carolyn Kalchthaler made the motion to approve appeals #11-26Z, Ed Stankunas seconded the motion. The Board voted 5/0 in favor of granting the variance request.

7. **APPEAL # 11-27Z 6624 RUTHERFORD ROAD:** A request to vary Subsection 2.809 (4) (b) and 3.1103 of the Zoning Ordinance number 2006-4-24 to allow an existing single family dwelling a front entry garage and reduce the 20 feet parking requirement to 10 feet. This appeal is requested by property owner Bruno Pasquinelli.

This appeal has similar facts as Appeal #11-23Z. Refer to summary under that Appeal for additional information. Carolyn Kalchthaler made the motion to approve appeals #11-27Z, Ed Stankunas seconded the motion. The Board voted 5/0 in favor of granting the variance request.

8. **APPEAL # 11-28Z 6628 RUTHERFORD ROAD:** A request to vary Subsection 2.809 (4) (b) and 3.1103 of the Zoning Ordinance number 2006-4-24 to allow an existing single family dwelling a front entry garage and reduce the 20 feet parking requirement to 10 feet. This appeal is requested by property owner Bruno Pasquinelli.

This appeal has similar facts as Appeal #11-23Z. Refer to summary under that Appeal for additional information. Carolyn Kalchthaler made the motion to approve appeals #11-28Z, Ed Stankunas seconded the motion. The Board voted 5/0 in favor of granting the variance request.

9. **APPEAL # 11-29Z 6632 RUTHERFORD ROAD:** A request to vary Subsection 2.809 (4) (b) and 3.1103 of the Zoning Ordinance number 2006-4-24 to allow an existing single family dwelling a front entry garage and reduce the 20 feet parking requirement to 10 feet. This appeal is requested by property owner Bruno Pasquinelli.

This appeal has similar facts as Appeal #11-23Z. Refer to summary under that Appeal for additional information. Carolyn Kalchthaler made the motion to approve appeals

#11-29Z, Ed Stankunas seconded the motion. The Board voted 5/0 in favor of granting the variance request.

10. APPEAL #11-30S 909 N CENTRAL EXPRESSWAY: A request to vary Subsection 3.1603 (1) (b) of the Zoning Ordinance number 2006-4-24 to allow a wall sign to be 45 square feet over the allowable 120 square feet for an overall of 165 square feet. This appeal is requested by Rosewd-GP, L.L.C., general partner, John M. Dziminski, to be represented by Melanie Hancock.

Patti Hoffer, Code Compliance Representative, gave a presentation on the property at 909 N. Central Expressway and answered questions from the Board.

Melanie Hancock, representing the applicant, testified that due to the lower case "p" and the logo, they are over the allowable square footage by forty five square feet. The proposed signage is the same scale as the Office Depot and the Men's Warehouse. However, the store frontage is smaller in size than that of Office Depot or Men's Warehouse.

Mr. Chris Cook, founder of Sleep Experts, testified there are 35 locations in the DFW area. This will be their 36th location. His sign including the logo is exactly the same in other locations. In designing the sign, having the lower case "p" and the moon created a problem with meeting the size allowed under City regulations. Visually, the proposed sign will not be any larger than the Office Depot or the Men's Warehouse.

Chairman Pirek closed the public comments.

After hearing discussions amongst the Board and seeing the possibility that the request may be denied based on insufficient number of affirmative votes, Chairman Pirek gave the Applicant the option to continue with the vote, or to withdraw the request and resubmit at a later time. Ms. Hancock requested to withdraw their request in order to explore alternatives.

11. Nomination of individuals for and election of Vice Chairman

Chairman Pirek nominated Carolyn Kalchthaler as Vice Chairperson of the Board of Adjustment. Carolyn accepted the nomination and the Board voted unanimously in favor of Ms. Kalchthaler serving as Vice Chairperson.

12. There are no cases for the January 10, 2012 meeting as yet. However, deadline to file is December 22, 2011

The Public Hearing adjourned at 4:17 P.M.



Mike Pirek, Chairman