

**BOARD OF ADJUSTMENT
MINUTES
February 26, 2018**

The Board of Adjustment will hold its regular monthly meeting on Monday, February 26, 2018 at 5:00 p.m. in the Council Chambers at City Hall.

Members Present

Chairman Lannis Nicholson
Vice-Chair Wendell Miller
Secretary Karen Yarbrough
Rob Caldwell

Members Absent

Peggy Stratton (Vacant)

Visitors Present: Mayor Horton, City Planner James Walden, City Attorney Trey Smith, Planning Assistant Lequitta Jones, Building Official Brian Holstein, Fire Marshal Setian, Dave Garza of Barrett & Associates, Don & Pam Goodson, and Wayne and Vicki Baldwin.

Welcome Visitors

The First Order of Business was to elect 2018 Officers: Chairman, Vice Chairman, and Secretary.

Member Miller made the motion to approve the 2018 Officers. Member Caldwell seconded the motion and passed unanimously.

Lannis Nicholson, Chairman
Wendell Miller, Vice-Chairman
Karen Yarbrough, Secretary

The Seconded Order of Business was a request to review and approve the minutes of the December 18, 2017 meeting.

Member Miller made the motion to approve the minutes as written. The motion was seconded by Member Caldwell and passed unanimously.

The Third Order of Business was a public hearing requesting approval for a variance from the 1600sf requirement to allow construction of a 3500sf shop for property located at 404 Turrentine Way. Submitted by Vicki Baldwin. (BOA.18.02.3634)

Planner Walden said the variance request is for the accessory structure size and height. The height and size of the structure exceeds what is allowed. The current use of the site is single-family residential. The proposed use is single-family with a barn. The Land Use Plan indicates the property for single-family residential. This would allow construction of a 3500-square foot barn that

is 26 feet tall. This requires a variance to permit the size and height of the structure to be located on a large area rural lot that is 3.195 acres.

The Comments:

- 1) The regulations on an accessory structure place a limitation at 1600sf, which is the maximum. They are really designed for what I would consider probably not agricultural lot, which is more like what this is. It is more for a normal City lot. So it is a little bit of a unique situation. The regulations provide guidance that the accessory structure should not occupy more than 10% of the lot size. In this case, the structure would occupy 2% of the lot size.
- 2) The setting of the site is a large rural lot. The accessory structure regulations were not designed to deal with such properties.
- 3) The structure will not dominate the property or visually impede on adjacent property.
- 4) And approval would not likely result in harm on adjacent property.

Because of that the staff recommendation is for approval based on the fact that accessory structure regulations are not designed to deal with properties like this or situations such as this case. As a result regulations impose substantial hardship on the property owner to enjoy appropriate use of the property.

Vicki Baldwin said she didn't have any more to add.

Member Caldwell made the motion to approve the variance. The motion was seconded by Member Miller and passed unanimously.

The Fourth Order of Business was a public hearing requesting approval for a variance to expand a non-conforming use for the existing facility located at 1501 South Arkansas Avenue. Submitted by Dave Garza of Barrett & Associates on behalf of Blue Chip Ice. (BOA. 18.02.3635)

Planner Walden said this application goes along with an application that is being submitted on the Planning Commission side for a rezone from R-2/C-2 to PUD. Essentially, Blue Chip Ice is intending to expand their ice house. It needs more office space and storage place. There is a long back story with this. The majority of the property is zoned C-2 and going back to at least 1998 that was actually a permitted use within that zone. In the internal time between 1998 and today *ice manufacturing* has become a prohibited use within that zone which has essentially created a situation where this business is now a non conforming use. One of the things the Board of Adjustment has is the ability to allow the expansion of a non conforming use granted it provides certain protections. The intent of this application is in case the PUD falls through that they would be allowed to expand using this route.

Member Miller made the motion to approve the variance subject to the PUD approval by the City Council. The motion was seconded by Commissioner Caldwell and passed unanimously.

Record only: If the PUD is approved this variance will be voided.

The Fifth Order of Business was a request of approval for a 10% *Special Exception* on front yard setback requirement for R-1 for property located at 1326 Marina Road. Submitted by Dave Garza of Barrett & Associates on behalf of Don Godson. (BOA.18.02.3636)

Planner Walden said this request is to approve a special exception to allow a 1.3 foot encroachment into the required 25 foot setback. This condition has existed since 1988 and has not been noticed until now. In order to approve something like this it has to be demonstrated that the action would not harm the public, health, safety, and welfare. This request is basically legalizing an existing structure to make sure that they don't have problems in closing for mortgages or have problems in the future. Basically, this is granting legal statutes to that house where the structure already exist and was legally permitted at the time.

The Comments

- 1) The request exception fits within the 10% parameters allowed by the zoning code.
- 2) Approval would not likely result in harm or adjacent property or harm the public welfare.

The *Staff Recommendation* is approval.

Dave Garza said when you look at it visually the houses further away than typically. Marina Road has an 80 foot right-of-way. There is an extra five feet that was gained by the highway. If it had been normal and it was just a 60 foot right-of-way there wouldn't have been an overlap.

Member Miller made the motion to approve the variance as submitted. The motion was seconded by Member Caldwell and passed unanimously.

Adjourned.

Chairman Lannis Nicholson