

MINUTES
ZONING BOARD OF ADJUSTMENT
October 30, 2017

After determining that a quorum was present, the Zoning Board of Adjustment convened in a Work Session on **Monday, October 30, 2017 at 4:00 p.m.** in the City Council Work Session Room at City Hall, 215 E. McKinney at which time the following items were considered:

PRESENT: Chair Greg Sawko, Vice-Chair Marshall Surratt, Board Members: Amber Briggie, David Higgins, William House, Jason Cole, and Connie Baker.

Alt. Board Members: Jennifer Lane, and Don Merki.

STAFF: Emily Loiselle, Angela Adams, Michelle Brown, Victor Flores, Scott McDonald, Trey Lansford, Ron Menguita, Athenia Green, Julie Wyatt, and Hayley Zagurski.

ABSENT: Alt. Board Member: Greg Price.

WORK SESSION

Chair Sawko called the Work Session to order at 4:00 p.m.

WORK SESSION

1. Clarification of agenda items listed on the Regular Meeting portion of this agenda, and discussion of issues not briefed in the written backup materials.

Board Member Higgins questioned the intent of Agenda Item 5. Ron Menguita, Long Range Planning Administrator, stated it allows opportunity for any Board Member to add any future items to appear on an upcoming agenda. Board Member Higgins questioned if it will appear on all agendas. Menguita confirmed, it is a standing agenda item.

There was no further discussion. Chair Sawko closed the Work Session at 4:03 p.m.

REGULAR MEETING

Following the completion of the Work Session, the Zoning Board of Adjustment convened in a Regular Meeting to consider the following items:

Chair Sawko called the Regular Meeting to order at 4:04 p.m.

1. PLEDGE OF ALLEGIANCE:

- A. U.S. Flag
- B. Texas Flag

2. CONSIDER APPROVAL OF THE ZONING BOARD OF ADJUSTMENT MEETING MINUTES:

- A. September 25, 2017

Board Member Higgins motioned, Board Member House seconded to approve the September 25, 2017 meeting minutes. **Motion approved (7-0).** Chair Greg Sawko, “aye”, Vice-Chair Marshall Surratt, “aye”, Board Member Amber Briggie, “aye”, Board Member Jason Cole, “aye”, Board Member Connie Baker, “aye”, Board Member William House, “aye”, Board Member David Higgins, “aye”.

3. ITEMS FOR INDIVIDUAL CONSIDERATION:

- A. Consider and appoint members for the Zoning Board of Adjustment Chair and Vice-Chair positions.

Board Member Higgins nominated Briggie for the Chair position, Board Member House stated he would second the motion. Board Member Briggie stated she appreciates the nomination, however, she would like for Sawko to still serve as Chair.

Board Member Briggie nominated Sawko for the Chair position. Vice-Chair Surratt stated he would be happy with serving as Vice-Chair again or allowing someone else to serve.

Chair Sawko stated he would withdraw as being Chair and allow for Briggie to serve as Chair. He stated it is good to have change. Chair Sawko nominated Briggie as Chair. Briggie accepted the nomination.

Chair Greg Sawko motioned, Board Member House seconded to vote Amber Briggie as Chair. **Motion approved (7-0).** Chair Greg Sawko, “aye”, Vice-Chair Marshall Surratt, “aye”, Board Member Amber Briggie, “aye”, Board Member Jason Cole, “aye”, Board Member Connie Baker, “aye”, Board Member William House, “aye”, Board Member David Higgins, “aye”.

Board Member Higgins motioned, Board Member Cole seconded to vote Marshall Surratt as Vice-Chair. **Motion approved (7-0).** Chair Greg Sawko, “aye”, Vice-Chair Marshall Surratt, “aye”, Board Member Amber Briggie, “aye”, Board Member Jason Cole, “aye”, Board Member Connie Baker, “aye”, Board Member William House, “aye”, Board Member David Higgins, “aye”.

Board Member Sawko called a recess to allow Chair Briggie to take over the meeting. A recess was held from 4:12 p.m. to 4:16 p.m.

B. Consider approval of the 2018 Zoning Board of Adjustment calendar.

Board Member Sawko motioned, Board Member Baker seconded to approve the September 25, 2017 meeting minutes. **Motion approved (7-0).** Board Member Greg Sawko, “aye”, Vice-Chair Marshall Surratt, “aye”, Chair Amber Briggles, “aye”, Board Member Jason Cole, “aye”, Board Member Connie Baker, “aye”, Board Member William House, “aye”, Board Member David Higgins, “aye”.

4. PUBLIC HEARINGS:

- A. Hold a public hearing and consider approval of a variance from Denton Development Code Section 35.5.2.3, General Regulations, relating to the minimum front and side yard setbacks on approximately 0.18 acre. The variance requested is for the construction of a solar panel support structure which would encroach into the minimum 20-foot front yard setback and minimum 6-foot side yard setback. The subject property is generally located on the north side of Hummingbird Lane, approximately 540 feet west of Cardinal Drive. (ZBA17-0002, Solar Panel Support Structure, Julie Wyatt).

Chair Briggles opened the Public Hearing. Julie Wyatt, Senior Planner, presented the request. She discussed the shade structure at the property. Staff sent out notices to property owners within 200 feet of the subject site. There was one response in favor and four opposed to the request. The structure would not be allowed without a variance.

Wyatt stated staff recommends denial of the request. She provided the requirements of an accessory structure as it is listed within the Denton Development Code. She stated Building Inspections would also review the structure according to the International Code Council.

Board Member Surratt questioned requirements for solar collectors. Wyatt stated there are not design criteria requirements for solar panels at this time.

Victor Flores, Deputy City Attorney, stated the variance would be for the setbacks not the actual structure.

Chair Briggles questioned if any conditions could be added to the variance. Flores stated no, the variance is the encroachment only. The variance pertains to real estate rights, it would carry on to any future owners of the property.

Chair Briggles swore in Sharon Barnhill, Cary Knupp, Leon Tribble, Alliston Ruffin, and William Barnhill.

Sharon Barnhill, owner, 3329 Hummingbird Lane, Denton, Texas. She stated to her understanding the carport down the street was approved in error. Barnhill provided pictures of neighboring carports on the street. She stated the solar panels would provide a lot of assistance to their property. There is not currently a lot of roof space that is within direct sunlight where the solar panels could be installed.

Chair Briggie questioned the carport setbacks from the curb. Barnhill stated approximately 12 feet from the curb. The new carport would be approximately 16 feet from the curb.

Cary Knupp, Contractor, 4232 Wells Drive, Lake Worth, Texas, stated the upper edge of the carport is proposed to be nine to ten feet from the edge of the street. The columns would then be setback from that distance.

Chair Briggie questioned if the size of the carport was decreased would it diminish the number of solar panels proposed. Knupp confirmed.

Board Member Surratt questioned if the proposed space was intended for the solar panels or vehicle parking. Knupp stated both.

Leon Tribble, 3411 Hummingbird Lane, Denton, Texas, stated he has resided in the neighborhood for 48 years. Tribble stated he has no issues with the neighbors or the carport. He stated he wasn't sure originally what a solar panel support system was. He has concerns with it being a nuisance in the neighborhood. Tribble stated he doesn't want to see it decrease the property values. He stated if this variance is approved then it will set a precedence for the neighborhood. He stated he is neutral to the request.

Chair Briggie questioned if the notification map could be updated. Wyatt stated a super majority vote would still be required.

Alliston Ruffin, Contractor, 7566 FM 1758, Bowie, Texas, stated the structure was developed to allow room for solar panels because there is not enough roof space. There will be a buyback program from Denton Municipal Electric (DME). He stated they have completed approximately seven other solar panel projects in Denton. Most of which have been roof mounts.

Ron Menguita, Long Range Planning Administrator, questioned the square foot required for the solar panels. Ruffin stated approximately 1,000 square foot is needed, they will run from edge to edge of the carport, within the fire code requirements. Menguita questioned if any of that number could be placed on the roof of the house. Ruffin stated no, they would be facing north which is not allowed by DME. He stated the south side could cover approximately 16 of the 35 panels.

Mr. Barnhill stated they were told the solar panels would significantly decrease their electric bill in the summer. He stated the shingle solar panels are more expensive and would be required on the entire roof, which unfortunately they do not have full roof access due to the existing shade.

Board Member Surratt questioned if the carport would be compatible to the existing residential structure. Knupp stated solar panels work better on a flat roof and not a pitched roof.

There was no one else to speak. Chair Briggie closed the Public Hearing.

Board Member Sawko stated he is not in favor of this request, it would set a precedence for the neighborhood. He stated he supports the solar panels, however, he does not support the carport.

He stated because the other carports were mistakenly approved does not grant the approval for everyone else.

Flores reminded the Board that the variance is for the setbacks not specifically for the carport.

Board Member Higgins thanked Barnhill for their work in the process, however, he cannot support the request. He stated he agrees with Sawko's comments. The request does not meet the criteria of the DDC. The carport structures are not complimentary to the neighborhood.

Chair Briggie stated she would have to disagree with staff's interpretation. She stated one of the carports on the street is developed compatible to the structure, whereas the other was not. She stated the City should be working towards goals such as solar panels. Chair Briggie stated she is in support of this request.

Board Member House stated he agrees with Board Members Higgins and Sawko. He stated he understands there are large trees on the property that shade the roof, however, the trees could be thinned out to allow more sunlight to the roof. There are two carports on the street, one was approved by mistake. He stated he is in favor of the solar panels, however, this does not meet the circumstances of a variance.

Board Member Sawko motioned, Board Member House seconded to approve staff's recommendation to deny the request. Motion approved (5-2). Board Member Greg Sawko, "aye", Vice-Chair Marshall Surratt, "aye", Board Member Connie Baker, "aye", Board Member William House, "aye", Board Member David Higgins, "aye". Chair Amber Briggie, "nay", Board Member Jason Cole, "nay".

5. [CONCLUDING ITEMS:](#)

There were no concluding items discussed. Chair Briggie adjourned the Regular Meeting at 5:34 p.m.