

MINUTES OF THE REGULAR MEETING OF THE BOARD OF ADJUSTMENT
OF THE CITY OF ROWLETT, TEXAS HELD IN THE ROWLETT
MUNICIPAL CENTER, 4000 MAIN STREET, ROWLETT, TEXAS
AT 7:08 P.M., FEBRUARY 2, 2009

PRESENT: Chairman, Larry Beckham; Vice-Chairman, Jerry Galloway; Members, Charles Lee, Juan Torres, and Juan Vasquez

STAFF PRESENT: Keri Samford, Director of Development Services; Erin Jones, Planner II; Shawn Poe, Assistant Director of Public Works/City Engineer; Kristen Harris, Administrative Assistant, Susie Quinn, City Secretary; David Berman, City Attorney

OTHER ATTENDEES:

Ross Harle and Zeshan Tabani
Tabani Group
16600 Dallas Parkway, Suite 300
Dallas, TX 75248

Susan Langdon
Savant Group
1700 Pacific Avenue, Suite 1240
Dallas, TX 75201

Item 1. Call to Order for Public Meeting.

Chairman Beckham called the meeting to order at 7:08 p.m.

Item 2. Consider approving the minutes from the April 14, 2008 Regular Board of Adjustment Meeting.

Board Member, Karl Crawley made a motion to approve the minutes from April 14, 2008 as submitted. Board member, Charles Lee seconded the motion. The motion passed with a 6-0 vote.

Item 3. Conduct a public hearing and take appropriate action on an appeal of a decision of the City Engineer and variance, if any, regarding the implementation of provisions contained in Section 77-505(F)(2)(s)(1-e) of the Rowlett Development Code, regarding requirement for deceleration lane(s) for Big Lots located at 3601 Lakeview Parkway, being Lot 2, Block 1 of the A.S.P.I. No. 1 Addition. (BOA09-01)

Mr. Beckham swore in those persons wishing to speak and opened the public hearing.

Erin Jones, Planner II, came forward to present the case. She stated that the proposed Big Lots location is the former Albertson's building that has been vacant for over six months. When the applicant approached the city in late November, staff informed them that they would be required to bring the site up to code due to the fact that it has been vacant for over six months. Big Lots submitted a modified site plan and landscape plan. They are proposing to remove excess parking spaces to put in additional landscaping.

Ms. Jones went on to state that the City Engineer is requiring three deceleration lanes on each of the three access points that are associated with the site. Ms. Jones discussed the provisions in Section 77-505 of the Rowlett Development Code (RDC) as they pertain to BOA authority in this case. Keri Samford, Director of Development Services, stated that if there were any questions regarding the provision, to address them to David Berman, City Attorney. Vice Chairman, Jerry Galloway asked for clarification. Mr. Berman stated that the City Engineer has determined that the deceleration lanes are required and the applicant is appealing that decision to the board. He went on to state that the first decision the board must make is if the decision of the City Engineer was appropriate and secondly, if the board will grant a variance or waive the deceleration lane requirements.

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Mr. Lee asked Ms. Jones about the Tabani Group who is representing Big Lots and possible other tenants. Ms. Samford deferred the question to the Tabani representatives present. Ross Harle with the Tabani Group explained that they have the property under contract and that they will be the owner and Big Lots will be the tenant.

Ms. Jones indicated the driveways on a location map where she had numbered them for easy reference. She went on to state that the applicant is appealing the City Engineer's decision based on the following criteria: The City Engineer's requirements deprives the property owner reasonable use of the property because the applicant does not own enough property or existing right of way to meet the requirements and cannot improve property they do not own. Furthermore, the applicant is concerned that if the deceleration lanes are required as stated by the City Engineer, the property will not be developed in the future as these issues will continue to arise since it is an existing property.

Mr. Beckham clarified with Ms. Jones that engineering is waiving the 2nd driveway deceleration lane requirement and Mr. Jones stated yes. Ms. Jones turned over the discussion to Shawn Poe, City Engineer.

Mr. Poe came forward to present the findings of the City of Rowlett Engineering Department. He stated that public safety is the Engineering Department's biggest concern and any time they can improve a situation in the matter of public safety they are committed to follow the code to insure that it happens. He cited several sections of the RDC as well as the transportation section of the comprehensive plan. He went on to state that Section 77-505, paragraph C of the RDC requires that the applicant provide a threshold analysis to determine whether a traffic impact analysis (TIA) is required. The TIA is a comprehensive look at the circulation of traffic patterns of the development. There are certain thresholds to determine whether a TIA is required or not. In this case, the applicant submitted a threshold analysis showing that the thresholds were not met for the proposed use. A TIA was not required. Mr. Poe continued by stating that Section 77-505, section F of the RDC states that even though a TIA may not be required, applicants may still have to meet the provisions for access management and driveway standards. Those provisions were applied when making the decision to require deceleration lanes for this project. He stated that Lakeview Parkway is a TXDOT maintained roadway, so in this case, the design standards that were followed are TXDOT standards, more specifically the Texas Access Management Manual or TAMM. The requirements that are used in the TAMM state that a deceleration lane will be required if traffic generated is greater than 60 vehicles per hour for roadways that have speed limits of 45 miles per hour.

Mr. Crawley asked if this was at peak hours. Mr. Poe replied saying that yes, it is 60 vehicles per hour for peak hours of the roadway. He went on to state that they also look at if there is high crash experience, heavier than normal peak flow movements of the main roadway and large volume of truck traffic. State Highway 66 is one of two truck routes in the city; Rowlett Road being the other. These other considerations are looked at in the event the project does not meet the 60 vehicles per hour limits. Engineering staff made an administrative decision based the requirements of the RDC and TAMM manual to require the deceleration lanes for the driveways. Mr. Poe then went on to show pictures of the driveways. Board members asked Mr. Poe several questions regarding the required width of a deceleration lane, how it is determined, etc.

Ross Harle with Tabani Group came forward and stated that changing uses from an Albertson's to a Big Lots, should not require deceleration lanes as they are both retail uses. Mr. Harle stated that if the deceleration lanes are required the turning radiuses will encroach on the neighboring properties that Tabani does not own. The radiuses that would keep traffic on the Tabani property only meet the requirements for compact cars. They do not meet the requirements of a truck, extended cab truck or SUV. He then turned the meeting over to the applicants' engineer Susan Langdon with the Savant

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Group. The board members asked Ms. Langdon a variety of questions regarding her research such as what transportation manual she used when preparing her research, etc. Ms. Langdon went on to explain the research she did while preparing the threshold analysis for the subject property and discussed the graphics and report she submitted in detail.

The board members went on to ask specific engineering questions regarding the feasibility of deceleration lanes of both Ms. Langdon and Mr. Poe. They then asked questions regarding the non-conforming status of the building. Ms. Jones read the specific wording of the definition of non-conforming use from section 77:900 of the RDC. There was a lengthy discussion regarding non-conforming uses versus non-conforming structures. Mr. Berman stated that if the shopping center is vacant, then the driveways are not being used to access that structure. If nobody is using that structure for 6 months or more, then the lawful nonconforming status and permission to use it in violation of the ordinances has terminated.

Mr. Galloway stated that based on the information from the city attorney it is his understanding that the board's number one task is to determine whether a deceleration lane is required. Mr. Crawley asked Mr. Poe why he says the deceleration lanes are required. Mr. Poe stated that he feels like the driveways are a safety issue and a traffic hazard that could be avoided with the construction of deceleration lanes. Mr. Galloway asked if there are numbers to back up the requirement. Mr. Poe stated that based on past experience the size of the building meets the TXDOT standards to require deceleration lanes.

Zeshan Tabani, owner of the Tabani Group addressed the board and stated that the Tabani group is prepared to develop the property with Big Lots and bring some other great tenants to the community. He stated that they will not be able to develop the property if the deceleration lanes are required.

After additional discussion between the board members, staff and the applicant Mr. Beckham closed the public hearing.

Mr. Crawley made a motion to uphold the applicant's request, citing that no evidence has been stated to warrant requiring a deceleration lane. Mr. Lee seconded the motion. Chairman Beckham called for a vote.

The motion passed unanimously in favor of the applicant (5/0 vote). The three deceleration lanes required by the City Engineer were been waived per the Board.

Item 4. Adjournment

Mr. Beckham adjourned the meeting at 8:26 pm.


Larry Beckham, Chairman


Erin L. Jones
Secretary

Signed by Jerry Galloway, Chairman,
I certify that the above minutes are a true
account of the meeting held on February 2, 2009.

