

## Board of Adjustment

### *Minutes*

#### City Council Chambers, Lower Level February 11, 2014

**Board Members Present:**

Trent Montague - Vice Chair  
Mark Freeman  
Chad Cluff  
Tyler Stradling  
Wade Swanson

**Board Members Absent:**

Greg Hitchens

**Staff Present:**

Gordon Sheffield  
Angelica Guevara  
Julia Kerran  
Kim Steadman  
Wahid Alam  
Mia Lozano-Helland  
Kaelee Wilson

**Others Present Continued:**

David Matta  
Cynthia Dunham  
Jacki Taylor  
Vince DiBella  
Wayne Jones  
Clarence Willis  
Ben Shank  
Kathy Willis  
Tysa Colbert  
Daniel Clark  
Patricia Willis  
Robert Scantlebury  
Trevor Stadler  
Jim Dawson  
Jerry Willis  
Evelyn Winward  
Rick Bodrero  
Art Bellgraph  
Patricia Logan  
Michael Quaintance  
Melany Taylor  
Marie Lanzon

**Others Present :**

Lola Askerneese  
Georgio Molina  
Maria Mancinas  
Sara Luster  
Steve Langstaff  
Doris Hawkins  
Patricia Willis  
Charles Huellmantel  
Nancy Bodrero  
Eloise Dykas  
Phillip Platt  
Christine Wetherington  
Claire Lefkowitz  
Paul Navarre

The study session began at 4:31 p.m. The Public Hearing meeting began at 5:38 p.m. Before adjournment at 8:43 p.m., the following items were considered and recorded.

**Study Session began at 4:50 p.m.**

- A. Zoning Administrator's Report
- B. The items scheduled for the Board's Public Hearing were discussed.

**Study Session adjourned at 5:33 p.m.**

**Board of Adjustment Meeting  
February 11, 2014**

**Public Hearing began at 5:38 p.m.**

- A. Election of Officer a motion was made by Boardmember Wade Swanson and seconded by Boardmember Stradling to elect Trent Montague as Chair and Mark Freeman as Vice Chair. Vote: Passed 5-0 (Absent Boardmember Hitchens)
  
- B. Consider Minutes from the January 14, 2014 Meeting a motion was made by Boardmember Stradling and seconded by Boardmember Swanson to approve the minutes. Vote: Passed 5-0 (Absent – Boardmember Hitchens)
  
- C. Consider Proposed Revisions to the By-laws of the Board of Adjustment a motion was made by Boardmember Stradling and seconded by Boardmember Swanson to continue the consideration of proposed revisions to the By-laws until the March 11, 2014 meeting.
  
- D. Consent Agenda a motion to approve the revisions to the By-laws as read was made by Boardmember Swanson and seconded by Boardmember Montague. Vote: Passed 6-0 (Boardmember Hitchens absent)

**Board of Adjustment Meeting  
February 11, 2014**

**Case No.:** BA13-045

**Location:** 960 North Riverview

**Subject:** Requesting a Special Use Permit to allow a wireless communication facility to exceed the maximum height allowed in the PS-PAD zoning district. (PLN2013-00392)

**Decision:** Continuance to the March 11, 2014 hearing

**Summary:** This item was on the consent agenda and was not discussed on an individual basis.

**Motion:** It was moved by Boardmember Swanson seconded by Boardmember Stradling to continue case BA13-045 to the March 11, 2014 meeting.

**Vote:** Passed (5-0) (Absent – Boardmember Hitchens)

**Board of Adjustment Meeting  
February 11, 2014**

**Case No.:** BA13-064

**Location:** 7303 East Main Street

**Subject:** Requesting a Substantial Conformance Improvement Permit (SCIP) to allow the expansion of an existing group commercial development in the LC zoning district. (PLN2013-00512)

**Decision:** Approval with Conditions

**Summary:** The applicant, Jason Bowen of 517 South Bloom, presented the case. Mr. Bowen provided the Board with a petition of over 500 signatures supporting the patio expansion. Boardmember Stradling inquired as to the progress on working with the neighbors. Mr. Bowen replied that he was able to present the proposed changes at the Mesa East Property Owners Association board meeting, however the neighbors were not willing to work together. Boardmember Freeman asked what measures have been take to abate the noise level.

Boardmember Freeman asked Mr. Quaintance what the noise level was like during the day. Mr. Quaintance replied that he did not know as the community was very active and were not usually at home during the days. Mr. Freeman asked what time that the noise is noticed. Mr. Quaintance stated that after dinner time, mainly 10:00 p.m. to 2:00 a.m. the noise level is too much. Boardmember Freeman asked if the homeowners could work with the restaurant owner to resolve their issues. Mr. Quaintance stated that as long as it was a biker bar they will not be able to work with the restaurant.

Boardmember Freeman asked the applicant the time that the noise complaint was registered on January 25, 2014. Mr. Bowen replied that is was 12:30 – 1:00 p.m. when the officer arrived and measured the decibel level. Boardmember Freeman inquired if the restaurant has exhausted every mean to work with the community. Mr. Bowen stated that he did not believe that the homeowners were willing to work things out. Boardmember Stradling verified that the restaurant currently has one television and two speakers outside and that they are planning on adding two more televisions and speakers outside.

Staff member Kaelee Wilson reminded the Board that if the restaurant wanted live entertainment outdoors they would need a Special Use Permit (SUP). Ms. Wilson agreed with Mr. Bowen that special events are limited to four times a year.

Boardmember Swanson stated that the restaurant has not been through the Board of Adjustments for any request prior to this case. Boardmember Stradling asked Staff what their suggestions were to abate noise. Ms. Wilson replied that beefing up the landscape plan and increasing the height of the wall.

Boardmember Swanson sympathized with the neighbors, but stated that we could not regulate taste and/or cannot control the patrons of a business. Mr. Swanson stated that the police report the board received stated that there have only been six noise level complaints in one year's time, five of which were during the grand opening. Mr. Swanson stated that the persons opposed to the case are requesting the denial of landscaping.

Boardmembers Freeman and Stradling inquired of staff different scenarios ,which the

## Board of Adjustment Meeting February 11, 2014

Board and/or Staff could stipulate to appease the neighbors and minimize the sound going to the neighborhood.

### Summary of opposition comments:

1. The establishment attracts bikers and is basically a 'biker bar'.
2. Does not like the name of the bar or the vocabulary on their sign.
3. No noise at all.
4. The residents will not accept any compromises.
5. During the Grand Opening, the speakers were pointed towards the neighborhood entrance.
6. Noise continues until 3:00 a.m. outside the back of the restaurant as the employees close up.
7. Motorcyclists create noise.
8. Police state they cannot enforce the noise ordinance.
9. The patio expansion will create a noise expansion.
10. The neighbors cannot work with restaurant as long as it is a biker bar..
11. They have no license to disrupt the property owners.
12. The community is afraid that their property values will decrease.

### Citizens present in opposition:

Eloise Dykas -305 South 72<sup>nd</sup> Circle  
Art Bellgraph – 7414 East Abilene Avenue  
Sandra West – 7258 East Abilene Avenue  
Patricia Logan – 7318 East Arbor Avenue  
Phillip Platt – 7324 East Arbor Avenue  
Michael Quaintance – 110 South Amulet Avenue

**Motion:** It was moved by Boardmember Freeman seconded by Boardmember Swanson to add Condition of Approval number 5 which is; to be compliant with Title 6 Chapter 12 of the Mesa City Code, and to approve Case BA13-064 with the following conditions:

1. *Compliance with the site plan submitted, except as modified by the conditions listed below.*
2. *Provision of additional landscaping along the east edge of the patio to include 3-feet of landscape area with two half-diamonds to accommodate 2 additional trees as well as the replacement of required trees in the existing landscape islands that are within 30-feet of the building.*
3. *Compliance with all requirements of an Administrative Design Review for a future cover for the patio. Design must be compatible with the building architecture.*
4. *Compliance with all requirements of Development Services in the issuance of building permits.*
5. *Compliance with all requirements of the Mesa City Code Title 6, Chapter 12.*

**Vote:** Passed (5-0) (Absent – Boardmember Hitchens)

### FINDINGS

1. The property was constructed under different code requirements.
2. The expansion increases the total outdoor eating space to 1200 square-feet, which is allowed in the LC Zoning District.
3. Full compliance with current Code development standards in relation to the proposed development would require the demolition and significant alteration of existing parking areas for the existing adjacent retail center.
4. The improvements represent an enhancement in the appearance of the site, including upgraded landscaping with trees that will provide shade and screening.

**Board of Adjustment Meeting  
February 11, 2014**

**Case No.:** BA13-068

**Location:** 400 block North Pasadena (both sides) and block of North Hibbert (both sides)

**Subject:** Requesting a Substantial Conformance Improvement Permit (SCIP) to allow the redevelopment of an existing multi-residence development in the RM-4 and DR-3 zoning districts. (PLN2013-00588)

**Decision:** Approval with Conditions

**Summary:** On behalf of the applicant, Sean Lake, presented the case. Chair Montague verified that the increase of the number of units from the previous project is 31 units. Chair Montague confirmed that the increase in density did not increase the incentive for the developer. Mr. Montague stated that he visited Escobedo Phase I and had a conversation with a few of the residents of the neighborhood. Mr. Montague stated that they were looking forward to friends and family moving in the new development. He also confirmed with the residents that parking is not an issue.

Boardmember Stradling stated that he has given a harder look at the details of the case and that he was still comfortable in supporting it. Boardmember Swanson stated that he was in favor of the case. Boardmember Freeman stated that the building closeness was still an issue with him. Mr. Freeman stated that he has accepted the parking situation. Christine Zielonka, City of Mesa Development and Sustainability Department Director, stated that she had taken Boardmember Freeman's concerns to the City of Mesa Fire Marshall and Building Official. Ms. Zielonka stated that she received strong professional opinions that the proposed setbacks and building separations absolutely meet building and fire codes.

Summary of opposition comments:

1. Claimed that the City lied to residents when they stated that they would not allow another project.
2. Upset in regards to the number of buildings in the proposal.
3. Wanted to ensure protection of the neighborhood for future residents.
4. High density increases crime and is not good for safety, fire, jails, courts, schools and/or public assets.
5. Approval of these requests will not contribute to the neighborhood's long-term viability.
6. Concerned that an increase in density makes more money for the developer.
7. Considered moving away from neighborhood due to this project.
8. Not enough community services to support the neighborhood.
9. The neighborhood residents are confused as this project reduces the quality of life.
10. Anchor families in adjacent neighborhoods are moving out.

Citizens present in opposition:

Robert Scantlebury – Mesa Resident

Trevor Stadler – Mesa resident

Evelyn Winward – 452 East 9<sup>th</sup> Place and property owner of 538 North Pasadena

Summary of comments in support:

1. Supporters reside in the Washington Park/Escobedo neighborhood.
2. The Quality of Life Plan, created by City of Mesa, has assisted the neighborhood tremendously.
3. Appreciate the time Gorman and Save the Family took to work with neighbors, stakeholders and schools to get support for this project.
4. Parking requirements for the neighborhood are not the same as a normal two-car

**Board of Adjustment Meeting  
February 11, 2014**

household.

5. People in the neighborhood look for work along public transit routes.
6. Escobedo it is well managed and works well with the community.
7. Changes are proposed to add more community service facilities.
8. Standard parking is not necessary as the majority of neighborhood residents use the adjacent mass transit system.
9. The neighborhood was very diverse.
10. The project provides housing for adoptive families.
11. Property values are increasing.
12. The project has created jobs.
13. Pride, volunteerism, connectivity and community activities have increased in the neighborhood.

Citizens present in support:

Wayne Jones – 530 North Pasadena Street  
Cynthia Dunham – 567 West 10<sup>th</sup> Street  
Nancy Thompson – 417 North Serrine Street  
Daniel Clark – 11260 North Tatum Boulevard  
Patricia Willis – 541 North Lewis Street  
Kathy Willis – 579 North Pasadena Street  
Clarence Willis – 2264 East Edgewood Avenue  
Christine Wetherington – 125 East University Drive  
Nancy Thompson – 417 North Serrine Street  
Jacki Taylor – 125 East University Drive  
Melany Taylor – 959 North Revere  
David Matta – 2338 East Hale Street  
Maria M Mancinas – 542 North Lewis Street  
Claire Lefkowitz – 125 East University Drive  
Marie Lanzon – 125 East University Drive  
Steve Langstaff – 125 East University Drive  
Doris Hawkins – 541 North Lewis Street  
Lola Askerneese – 418 North Hibbert

**Motion:** It was moved by Boardmember Stradling seconded by Board member Swanson to approve Case BA13-068 with the following conditions:

1. *Compliance with the site plan, landscape plan, and building elevations submitted, except as modified by the conditions listed below.*
2. *Compliance with all requirements of Design Review.*
3. *Compliance with all requirements of the Development Services Division with regard to the issuance of building permits.*
4. *Compliance with Development and leasing agreement with the City of Mesa.*

**Vote:** Passed (4 – 1) (Nay – Boardmember Freeman, absent – Boardmember Hitchens)

**Board of Adjustment Meeting  
February 11, 2014**

FINDINGS

1. The Escobedo Phase II apartment complex has 62 units and the current code requires 131 parking spaces at the ratio of 2.1 spaces per. The site plan for Phase I provided 67 parking spaces at the ratio of 1.1 spaces per unit. The site plan for both phases of development has a total of 132 units and provides a total of 204 onsite parking spaces at a ratio of 1.5 parking spaces.
2. The Helen's Hope Chest (HHC) facility, at the NEC of Pasadena and University Drive, is a total of 8,035 square-feet and provides 20 parking spaces, which is compliant with the current code.
3. Compliance with current Code requirements is not possible without significant alteration of the site plan and the reduction in density.
4. Substantial conformance with current Code development standards has provided landscaped open space, outdoor amenities, legacy court, community room and Helen's Hope Chest as an accessory facility to the Escobedo affordable housing complex.
5. The project, with all its facilities and amenities, has substantially conformed to the intent of the Code and has provided a development that is consistent with and not detrimental to adjacent properties.
6. The right of way running through the project causes

**Board of Adjustment Meeting  
February 11, 2014**

- Case No.:** BA14-004
- Location:** 2212 North 63<sup>rd</sup> Place
- Subject:** Requesting a Variance to allow an addition to encroach into the required front yard in the RS-9 zoning district. (PLN2014-00004)
- Decision:** Approval with conditions
- Summary:** The applicant, James Dawson of 2212 North 63<sup>rd</sup> Place, presented his case. Boardmember Freeman verified that the garage was wheelchair accessible. Boardmember Stradling stated that the subdivision was permitted in Maricopa County.
- Motion:** It was moved by Boardmember Swanson seconded by Boardmember Stradling to approve case BA14-004 with the following conditions:
1. *Compliance with the sign plan as submitted, except as modified by the conditions listed below.*
  2. *Compliance with all requirements of the Development Services Division with regard to the issuance of building permits.*
- Vote:** Passed (5-0) (Absent – Boardmember Hitchens)

**Board of Adjustment Meeting  
February 11, 2014**

- Case No.:** BA14-005
- Location:** 1725 South Country Club Drive
- Subject:** Requesting a Special Use Permit for Comprehensive Sign Plan in the LI-PAD zoning district. (PLN2014-00007)
- Decision:** Approval with conditions
- Summary:** The applicant, Vince Di Bella, stated that they were willing to extend the bases of the monument signs. Boardmember Swanson stated that widening the columns was a good compromise.
- Motion:** It was moved by Boardmember Stradling seconded by Boardmember Swanson to approve case BA14-005 with the following conditions:
1. *Compliance with sign plan submitted, except as modified by the following conditions 2-5.*
  2. *Art Graphics at the parking canopies (identified as sign type #7, keynote "K" on site plan) are limited to four locations along Country Club Dr. and three on Iron Ave.*
  3. *The Art Graphics designs are considered signage in the form of commercial murals. The actual art used in the Art Graphics is limited to the display of products, and should not include anything that could be construed as advertising copy.*
  4. *The two Site Monument Signs (identified as sign type #1, keynote "H" & "I" on site plan) need an enhanced design. Final design to be approved by Planning Division staff before issuance of a sign permit.*
  5. *Compliance with all requirements of Development Services in the issuance of sign permits.*
- Vote:** Passed (5-0) (Absent – Hitchens)

**FINDINGS**

1. The CSP includes:
  - a. DETACHED SIGNS - The CSP reduces the number of detached signs from four to two. The two signs conform to the maximum allowed height of 12' for detached signs, but the signage area of 144 sq. ft. per sign exceeds the standard cap of 80 sq. ft. This exception is balanced by the enhanced quality of the sign package.
  - b. ATTACHED SIGNS - The CSP specifies signage locations with a total of 18 attached signs. Six of these signs do not include logo/trademark and serve simply to identify the function of the building.
  - c. WINDOW SIGNS - The CSP document identifies the locations for window stencils.
  - d. SITE DIRECTIONAL SIGNS - The CSP consists of two types of directional signs. The larger of the two is 16 sq. ft. The smaller sign is 6 sq. ft. There are 5 of the larger signs and 8 of the smaller signs throughout the site.
  - e. ART GRAPHIC DISPLAYS –The CSP artistic displays at some of the columns of the parking structures meets the Zoning Code standard.
2. The CSP, including staff conditions of approval, is compatible with the existing development as well as surrounding properties, and is not detrimental to adjacent development.

**Board of Adjustment Meeting  
February 11, 2014**

**Case No.:** BA14-006

**Location:** 1112 West Farmdale Avenue

**Subject:** Requesting a Variance to allow an addition to encroach into the required side yard in the RS-6 zoning district. (PLN2014-00013)

**Decision:** Approval with conditions

**Summary:** The applicant, Paul La Barre of 1112 West Farmdale Avenue presented his case. Paul Navarre of 1104 West Farmdale, applicant's neighbor to the east, stated that he did not have any complaints and that the runoff from the roof did not come into his yard. Boardmember Swanson stated that he had sympathy for the applicant, however he could not find a way to support him. Boardmember Stradling verified the fire and safety issues.

**Motion:** It was moved by Boardmember Stradling seconded by Boardmember Cluff to approve case BA14-006 with the following conditions:

1. *Compliance with the site plan as submitted.*
2. *Compliance with all requirements of the Development Services Division with regard to the issuance of building permits.*
- 3.

**Vote:** Vote (4-1) (Nay – Boardmember Swanson, absent – Boardmember Hitchens)

**FINDINGS**

- i. The proposed variance authorizes a 192 sq. ft. storage addition within the 5' side yard setback of the subject parcel. The addition encroaches 2 ft. 6 in. into the required five-foot side yard setback.
- ii. The subject site is lot 58 of the Country Village 2 subdivision.
- iii. The RS-6 zoning district requires 5 ft. and 10 ft. side yard setbacks and 20 ft. front and rear yard setbacks.
- iv. The 8'-6" side setbacks was standard for subdivisions that developed in the early 1970's with alleys behind the residences that allow the residents rear yard access.
- v. The storage addition would conform to the zoning ordinance if it were constructed as a detached accessory structure in the rear quarter of the lot and the side setback.
- vi. There is an existing pool and a storage structure currently in the rear yard.
- vii. The lot exceeds the minimum required size for lots in the RS-6 zoning district (6,000 s.f.)
- viii. The subject parcel is 6,952 s.f.
- ix. Other property owners in the neighborhood have constructed similar additions.

**Board of Adjustment Meeting  
February 11, 2014**

- Case No.:** BA14-007
- Location:** 442 South El Dorado
- Subject:** Requesting a Variance to allow an addition to encroach into the required side yard in the RS-6 zoning district. (PLN2014-00013)
- Decision:** Approval with conditions
- Summary:** This item was on the consent agenda and was not discussed on an individual basis.
- Motion:** It was moved by Boardmember Swanson seconded by Boardmember Stradling to approve case BA13-045 with the following conditions:
1. *Compliance with the site plan and exhibits submitted.*
  2. *Compliance with all requirements of the Development Services Division in the issuance of building permits.*
- Vote:** Passed (5-0) (Absent – Boardmember Hitchens)

**FINDINGS**

1. The home was constructed in 1960 in Maricopa County. Based on historic aerials, the patio addition was added sometime between 1969 and 1979. In 1987, building permits were issued through Maricopa County to construct the 4,381 square foot detached structure.
2. The encroachments into the rear and side yard were in existence prior to annexation.
3. The home was constructed on a unique angle in which the southwest corner encroached into the side yard. The home has been in the same configuration since 1979.
4. The expansion of the livable area will bring the property further into conformance with the maximum roof area requirement set forth in the Zoning Ordinance.

**Board of Adjustment Meeting  
February 11, 2014**

**Case No.:** BA14-008

**Location:** The 1300 to the 1400 blocks of South Hawes Road (east side).

**Subject:** Requesting a Special Use Permit to allow a Wireless Communication Facility to exceed the maximum height allowed in the AG zoning district. (PLN2014-00022)

**Decision:** Continuance to the March 11, 2014 meeting

**Summary:** The applicant requested a continuance in order to speak to residents in the area.

**Motion:** It was moved by Boardmember Stradling seconded by Boardmember Cluff to continue case BA14-008 to the March 11, 2014.

**Vote:** Passed (5-0) (Absent – Boardmember Hitchens)

**Board of Adjustment Meeting  
February 11, 2014**

**Case No.:** BA14-009

**Location:** 1709 West Mountain View

**Subject:** Requesting: 1) a Variance to allow a reduction to the required number of parking spaces; and 2) a Variance to allow an encroachment into the required side yard; both in the RS-6 zoning district. (PLN2014-00026)

**Decision:** Approval with conditions

**Summary:** The applicant, Gregario Molina of 1709 West Mountain View, presented his case. Mr. Molina's neighbors, Rick and Nancy Bodrero, stated that the carport was built in the 1990's and the property has never looked better since Mr. Molina moved in. Boardmember Swanson stated that this case was similar to the previous case.

**Motion:** It was moved by Boardmember Freeman seconded by Boardmember Stradling to approve case BA14-009 with the following conditions:

1. *Compliance with the site plan and exhibits submitted unless otherwise modified by the conditions below.*
2. *Compliance with all requirements of the Development Services Division in the issuance of building permits for both the original carport enclosure and the one-car garage.*
3. *An approach must be placed to the drive-way in accordance to City of Mesa detail M-40.01*
4. *The gravel drive-way on the west shall be replaced with concrete.*
5. *The garage shall become a 10'W X 22' drive-thru carport with double doors at both ends .*

**Vote:** Passed (4-1) (Nay – Boardmember Swanson, absent – Boardmember Hitchens)

**FINDINGS**

1. The variance allows for a reduction in the required number of parking spaces and a garage to encroach into the required side yards. The garage encroaches 5 ½ feet into the required side yard.
2. Zoning Ordinance requirements at the time the home was constructed and at the time that the additional livable space was constructed allowed for one covered parking space.

OTHER BUSINESS:

ITEMS FROM CITIZENS PRESENT

None

Respectfully submitted,

Gordon Sheffield, AICP CNU-a  
Zoning Administrator