



**CITY OF
MESA**

Great People, Quality Service!

**BOARD OF
ADJUSTMENT
MINUTES**

October 14, 2003

Board members Present:

Jared Langkilde, Chair
Roxanne Pierson, Vice Chair
Jennifer Gniffke
Greg Lambright
Mike Clement
David Shuff
Webb Crockett

Staff Present:

John Gendron
Gordon Sheffield
David Nicolella
Krissa Hargis
Gabriel Medina

Board members absent:

N/A

Others Present:

Chantel Griffin
John Reddell
Holly Jo Taylor
Nancy Saline
Linda Real
Others

Before adjournment at 7:00 p.m., the following items were considered and recorded on Board of Adjustment Tape # 295.

Study Session 4:30 p.m.

- A. Senior Planner Gordon Sheffield informed the Board that the Arizona Department of Commerce will be holding the Board Commission members workshop annual conference on December 3, 2003.
- B. Senior Planner Gordon Sheffield spoke to the Board and answered questions related to the newly adopted electronic changeable message boards sign ordinance.
- C. The study session began at 4:30 p.m. The items scheduled for the Board's Public Hearing were discussed.

Public Hearing 5:30 p.m.

- A. Consider Minutes from the September 9, 2003 Meeting:

Chair Langkilde noted that two minor changes need to be made to the minutes. It was moved by Boardmember Crockett, and seconded by Boardmember Shuff, that the minutes of the September 9, 2003 Board of Adjustment meeting be approved with noted changes.

Vote: Passed 7-0

**Board of Adjustment Meeting
October 14, 2003**

Case No.: BA03-043

Location: 3130 East Broadway Road.

Subject: Requesting a variance to allow a bulk oxygen storage tank to encroach into the side yard in the R-4 district.

Decision: Withdrawn

Summary: This case was on the consent agenda and was not discussed individually.

Motion: It was moved by Mr. Crockett, seconded by Mr. Shuff, that this case be withdrawn.

Vote: Passed 7-0

Finding of Fact: N/A

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**Board of Adjustment Meeting
October 14, 2003**

Case No.: BA03-044

Location: 1959 East Main Street

Subject: Requesting a Development Incentive Permit (DIP) to allow for the development of an automotive dealership in the C-3 district.

Decision: Continued to the November 4, 2003 hearing.

Summary: This case was on the consent agenda and was not discussed individually.

Motion: It was moved by Mr. Crockett, seconded by Mr. Shuff, that this case be continued for 30 days.

Vote: Passed 7-0

Finding of Fact: N/A

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**Board of Adjustment Meeting
October 14, 2003**

Case No.: BA03-045

Location: 1409 South Nassau

Subject: Requesting a variance to allow a carport to encroach into the front yard.

Decision: Continued to the November 4, 2003 meeting.

Summary: This case was on the consent agenda and was not discussed individually.

Motion: It was moved by Mr. Crockett, seconded by Mr. Shuff that this case be continued for 30 days.

Vote: Passed 7-0

Finding of Fact: The applicant failed to send notice of this request to abutting property owners.

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**Board of Adjustment Meeting
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Case No.: BA03-046

Location: 2912 East Baseline Road Suite-2C

Subject: Requesting a Development Incentive Permit (DIP) to allow the development of office in the C-2 district.

Decision: Approved with conditions.

Summary: Chantel Griffith, a representative for the Freeman family, spoke to the Board about the project. She stated that the only modification she would like the Board to consider is the placement of the building. By accommodating the staff requirement for a foundation base, approximately 300 square feet of office space would be lost. If the Board would allow the building to be moved back one foot, making the rear setback 11 feet as opposed to 12 feet, then they could keep the square footage needed to make the project still feasible. Mr. Sheffield stated that staff would accept the applicant's request to reduce the landscape setback in the rear by one foot in order to meet the foundation base request in the front.

Mr. Lambright stated that this is a well-designed project for the neighborhood and the proposal is a good solution for this vacant piece of property.

Motion: It was moved by Mr. Crockett, and seconded by Mr. Lambright that this case be approved with the following conditions:

1. Provide a 15-foot foundation base and landscape area along the entrance of the building where the reception tile entry feature is located. The 15 feet shall be measured from face of building to face of curb.
2. Provide a 10-foot foundation base landscaping along the remainder of the front of the building measured from face of building to face of curb.
3. Provide an 11-foot rear yard setback instead of a 12-foot setback.
4. Provide one tree and three shrubs every twenty-five feet adjacent to public-right-of-way.
5. Provide one tree and one shrub for each fifteen feet of adjacent interior property line. Trees shall be planted at fifteen feet on center.
6. Compliance with all requirements of the Design Review Board; and Compliance with all requirements of the Building Safety Division of the Development Services Department.

Vote: Passed 7-0

Finding of Fact

- 1.1 The project site qualifies as being eligible for a Development Incentive Permit (DIP). The total developable land area is less than twenty-five percent vacant within 1200' of the site, and almost all of the development within that radius was developed in excess of 20 years ago. Existing utility lines serve the property, and the parcel size is less than 2.5

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acres.

- 1.2 This project is consistent with the General Plan designation for the site, and is consistent with the existing zoning for the property.
- 1.3 The Development Incentive Permit is necessary to accommodate the proposed development. The incentives include modifications to building setbacks and landscape materials. The proposal meets the intent of the development provisions contained in Chapter 14 and 15 of the Zoning Ordinance.
- 1.4 The approval of the DIP will result in a development that is well matched with adjacent properties. The site is adjacent to existing offices, a convenient store, and a condominium project.

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**Board of Adjustment Meeting
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Case No.: BA03-047

Location: 1952 South Gilbert Road.

Subject: Requesting a Substantial Conformance Improvement Permit (SCIP) and a Special Use Permit to allow the development of a car wash in the C-2 district.

Decision: Approved with conditions.

Summary: This case was on the consent agenda and was not discussed individually.

Motion: It was moved by Mr. Crockett, seconded by Mr. Shuff that this case be approved with the following conditions;

1. Provision of a recorded reciprocal parking and cross access agreement(s) with the surrounding group commercial center. The reciprocal parking agreement shall provide evidence of a minimum of four parking spaces for this use. Evidence of the parking should be provided as part of the Design Review Board submittal. Should they not be able to provide evidence of such an agreement then provide four additional spaces on the northern most end of the site were they have existing landscaping;
2. Compliance with the site plan and elevations submitted, except as modified by the conditions listed below;
3. Compliance with all requirements of the Design Review Board; and
4. Compliance with all requirements of the Building Safety and Engineering Divisions.

Vote: Passed 7-0

Finding of Fact:

- 1.1 The existing land use is a vacated car wash/gas station/convenience store, and is located at the immediate intersection of two major arterial streets. Commercial uses surround the site on all four sides. Residential sites are buffered by intervening commercial buildings. The restaurant to the east is across Gilbert Road, and should be impacted by street noise more than the vacuum noise of the proposed car wash. A single bay car wash, oriented along an east-west axis, should be compatible with surrounding uses.
- 1.2 The Board made a finding that the proposed plan constitutes "substantial conformance" with the new Chapter 15 requirements. The applicant has provided a landscape area along Baseline that is in excess of the new standard. The reduction to the setback requested along Gilbert Road is two-thirds of the requirement, and the applicant is using unique architectural forms to offset the lack of an additional corner radius setback.
- 1.3 All building setbacks have been met. The encroachments into the landscape setbacks requested will involve drive aisles to circulate vehicles around and through the site. The

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drive aisles are needed because of the auto-oriented nature of this land use.

- 1.4 Four parking spaces are needed to serve this use (required by Chapter 11-16 of the Zoning Ordinance). Because the surrounding site is a commercial center, and there exists recorded reciprocal parking and access easements, the parking on the adjoining site may be used. However, a parking count is needed to assure the total number of spaces for the entire center is not deficient.

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**Board of Adjustment Meeting
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Case No.: BA03-048

Location: 634 East Bates Street

Subject: Requesting a Special Use Permit to allow for the keeping of livestock in excess of the number permitted in the R1-43 district.

Decision: Approved as submitted.

Summary: Holly Jo Taylor stated that she has had four horses at this location for over 10 years and she has never had any complaints filed against her. She then gave the Board a petition signed by the surrounding property owners in support of her Special Use Permit. In December of 2002, the adjacent property to the east was sold and shortly after that the first complaint against her was filed with the animal control department. Upon an investigation by the animal control department she was given a warning to clean up the horse stalls and was told that she was not allowed to have four horses because she doesn't have enough land. She promptly made extra efforts to clean the stalls to meet the request of the animal control officer. The method used to clean the stalls involved taking the manure out of the stall and spreading it in the pasture. The animal control officer then cited her for spreading the manure in the pasture. The code does not allow manure to be spread, it must be bagged and disposed. In addition, she was cited again for having four horses on the property. Because of this she was fined and placed on probation for 12 months and again was told she has to remove two of the four horses. She then stated that she has always kept her horse stalls clean and that she was not aware that she could not spread the manure in the pasture.

Nancy Saline, the mother of the applicant, spoke in support of the applicant's request. She confirmed that four horses have been on the property for over ten years and over the ten years, there has never been a complaint filed.

Matthew Skinner, a property owner directly south of the subject site, stated that he has lived there for four years and has never heard of any complaints and has never noticed any problems with the setup or maintenance of the site.

Boardmember Langkilde asked Diane Brady from the animal control department to step forward to address some questions. Ms. Brady gave a chronological order of events that took place on the subject site. She stated that there were four citations given to Ms. Taylor. They were as follows: failure to remove manure, lack of fly control, unsanitary premises, and having too many horses on the property.

Boardmember Crocket stated that according to the applicant testimony, these horses have been there for 10 years without a complaint. Then an individual moves into the area, starts filing complaints, even harassing the applicant. Mr. Crocket went on to say that he is disturbed by the plaintiffs behavior and it is his intent to vote in support of the Special Use Permit based on the evidence he has heard here tonight.

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Case No.: BA03-049

Location: 653 East Gable Ave.

Subject: Requesting a variance to allow a carport to encroach into the side yard.

Decision: Denied

Summary: Linda Real stated that she and her husband have owned this home for 30 years and that the carport in question has existed for at least 20 years. Her husband recently made some modifications because it was deteriorating and he wanted it to be nicer. They have never had any problems with the City in the thirty years they have lived in the home. She was cited for a carport that is blocking access to the rear yard. If access to the rear yard is the only reason for the violation than the citation should be dismissed because she believes that there is absolutely no need for 10 feet of access to the rear yard. She stated that a vote of denial would deprive her of something that a large percentage of the neighborhood has. The staff report states that strict compliance with the zoning ordinance would put her back into parity. A quick drive around her neighborhood disproves that.

Mr. Christianson, a neighbor of the Reals, stated that they have the nicest home in the neighborhood. The Reals take pride in their neighborhood and he wishes more neighbors would maintain their home like the Reals.

Chair Langkilde stated that he would like the applicant to work with city staff to find a solution to the carport encroachment.

Boardmember Crockett asked Mr. Sheffield if there was a solution that could be worked out.

Mr. Sheffield responded that options for this would be extremely limited, the only one he can think of is to take it down. This request for a variance does not meet the justification for a variance.

Motion: It was moved by Mr. Clement, seconded by Mr. Pierson, that this case be Denied.

Vote: Passed 7-0

Finding of Fact:

- 1.1 The lot is a typical lot in terms of size and shape and no apparent hardships exist. It is relatively flat, with no sharp changes to slope or topography on the site. No special circumstances exist on the site that justifies the approval of a variance.
- 1.2 The approval of a variance in this situation would grant the applicant special privilege or unusual favor over other sites with similar circumstances and zoning.

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Respectfully submitted,

Gordon Sheffield, AICP
Senior Planner
Minutes written by David J. Nicolella, Planner I