

Board of Adjustment Minutes



City Council Chambers, Lower Level
December 12, 2006

Board members Present:

Dina Higgins, Chair (Left at 7:00)
Mike Clement, Vice Chair
Craig Boswell
Garrett McCray
Dianne von Borstel
Roxanne Pierson

Board members Absent:

Randy Carter (Excused)

Staff Present:

Gordon Sheffield
Jeff McVay
Jim Hash
Lena Butterfield

Others Present:

The study session began at 4:30 p.m. The Public Hearing meeting began at 5:30 p.m. Before adjournment at 7:30 p.m., the following items were considered and recorded on Board of Adjustment Tape #355, and 356.

Study Session 4:30 p.m.

- A. 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 November 14, 2006 Meeting A motion was made to approve the minutes by Boardmember von Borstel and seconded by Boardmember Boswell. **Vote: Passed 6-0**
- B. Consent Agenda A motion to approve the consent agenda as read was made by Boardmember Boswell and seconded by Boardmember McCray. **Vote: Passed 6-0**

**Board of Adjustment Meeting
December 12, 2006**

Case No.: BA06-042

Location: 7163 E Superstition Springs Blvd

Subject: Requesting a Special Use Permit for a Comprehensive Sign Plan in the R1-6-PAD zoning district.

Decision: Approved with conditions

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

Motion: It was moved by Boardmember Boswell, seconded by Boardmember McCray to approve this case with the following conditions

1. *Compliance with the sign plan submitted, except as modified by the conditions listed below.*
2. *Compliance with all requirements of the Building Safety Division with regard to the issuance of sign permits.*
3. *The electronic message display must remain static for a minimum period of one hour.*

Vote: Passed 6-0

Finding of Fact:

- 1.1 The applicant has proposed a 25 square foot permanent identification/information sign that utilizes an electronic message display. Such identification/information signs constructed of low maintenance materials are allowed at the entry to subdivisions with a maximum area of 12 square feet.
- 1.2 The proposed entry identification/information sign is intended to provide information to commercial property owners, as well as residents of the subdivision of the SSCMA. Provision of information through the use of an electronic message display adjacent to an existing commercial development, is consistent with the intent of the Ordinance.
- 1.3 The sign does not utilize low maintenance construction materials consistent with those described in the Ordinance (metal or ceramic), however, the applicant has provided sufficient evidence that the LED portion of the electronic message display requires little maintenance and the entire sign will be well maintained by the SSCMA.
- 1.4 The applicant has located the sign adjacent to existing commercial and multiple residence developments. Given the proposed location, as well as the incorporation of the sign into an existing subdivision wall, the proposed electronic message sign will be compatible with and not detrimental to neighboring properties.

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**Board of Adjustment Meeting
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Case No.: BA06-051

Location: 6035 East Hannibal Street

Subject: Requesting a variance to allow a shade cover addition to an existing single residence to encroach into the front yard in the R1-9 zoning district.

Decision: Continued to January 9, 2007.

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

Motion: It was moved by Boardmember Boswell, seconded by Boardmember McCray to continue this case.

Vote: Passed 6-0

Finding of Fact: N/A

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**Board of Adjustment Meeting
December 12, 2006**

Case No.: BA06-058

Location: 1940 North Rosemont

Subject: Requesting a modification of a Substantial Conformance Improvement Permit (SCIP) for the expansion of an existing industrial center in the M-2 zoning district.

Decision: Approved with conditions

Summary: Mr. Albright explained that the site plan has been revised to show a one-story building. He went on to explain that this proposal is the best approach to building on the site for the following reasons:

1. The site will comply with the total plantings required by the Code.
2. Compliance with the landscape setback requirements would impede the movement of large trucks that need access to the site.
3. The owner's business plan has changed since the original SCIP approval, which necessitates the larger building size.
4. The proposed location of the new office building best meets the needs of the property owner.
5. Because of the layout of the industrial center, the new office will have minimal impact on surrounding properties.
6. The industrial building located on the adjacent property most affected by the proposal is approximately 100 feet away and has a loading bay facing the subject property.

The Board agreed that the proposed site plan is compatible with the surrounding industrial complex and provides substantial conformance with Code requirements, particularly with the addition of a handicapped parking space and two 24-inch box size trees.

Motion: It was moved by Boardmember Boswell, seconded by Boardmember von Borstel to approve this case with the following conditions:

1. *Compliance with the plans submitted, except as modified by the conditions below.*
2. *Two (2) additional trees, minimum twenty-four inch (24") box size or larger, shall be provided within the landscape setback from the south property lines and east of the proposed building.*
3. *A minimum of one (1) handicap accessible parking space shall be provided adjacent to the proposed building.*
4. *Compliance with the requirements of an Administrative Design Review.*
5. *Compliance with all requirements of the Building Safety Division in the issuance of building permits.*

Vote: Passed 6-0

Finding of Fact:

- 1.1 The proposed site plan results from exploration of several alternatives. The alternatives would have resulted in a great deal of modification to existing development on the site and the extension of utilities significantly greater than the location proposed.

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- 1.2** The interior landscape requirements have been brought in significant conformance with Code requirements and the two 24-inch box minimum size trees will be placed within existing landscape areas to offset the reduction created by the zero-lot line development.
- 1.3** The subject site is part of a larger group industrial development. Several buildings within the group center have been developed with zero-lot line setbacks. The proposed building will be of comparable size and design as other buildings within the center.
- 1.4** The site plan proposes a zero-lot line setback adjacent to the south property line for a 6,300 square foot building with a maximum height of 25 feet. The adjacent industrial building to the south most affect by the proposal is approximately 100 feet from the property line. The loading bay for that building faces the subject site. The owner of the adjacent building has provided a letter in support of the requested SCIP.
- 1.5** With the exception of a zero-lot line setback for the proposed office/warehouse building the proposed plan will not create new non-conformities and will bring the entire site into a greater degree of conformance with current Code requirements.

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**Board of Adjustment Meeting
December 12, 2006**

Case No.: BA06-059

Location: 2436 North Rose Street

Subject: Requesting a variance to allow a detached accessory structure to exceed the maximum height allowed in the R1-15 zoning district.

Decision: Denied

Summary: Mr. Hallsted explained that the garage had been granted a building permit and had been approved through all of the departments including Planning and Zoning. He went on to describe other garages in the area that are similar to the one he is proposing to build and explained that not granting the variance would deprive him of having a detached garage, particularly for the intended use. Additionally, most of the neighbors agree to the variance request. Mr. Freeman, an attorney representing neighbors, and Mr. Schoen, 2161 E Menlo Cir, explained that they oppose the case because they are concerned that the variance will set precedence, and lower property values in the neighborhood. Mr. Tinger, 2433 N Acacia, explained that he is directly affected by the garage and is opposed to the variance. He went on to explain that the garage is imposing on his rear yard and is concerned that his property values will be lowered because of it. Mr. Hallstead explained that detached garages are not uncommon in the neighborhood. Mr. McVay explained that though the garage did indeed receive building permits, the Board must look at the request as though it were a plan on paper. He went on to clarify how the City measures the height of a building and explained that the garage would be legal if it were moved to a different location on the property. Additionally, he is still recommending denial of the case because the request does not meet the requirements to grant a variance. Ms. Higgins, and Mr. Clement confirmed that the garage could be the height proposed and be three-feet (3') from the rear property line if it were moved out of the side setback. Mr. McCray confirmed that the garage can maintain its current location if it were lowered to a height of ten feet. The Board agreed that the request does not meet the criteria set forth by State Statute to grant a variance.

Motion: It was moved by Boardmember Clement, seconded by Boardmember McCray to deny this case.

Vote: Passed 6-0

Finding of Fact:

- 1.1 The proposed detached garage is partially constructed and would be located in a required rear and side yard. Current Code would allow a detached garage in the proposed location with a maximum height of 10 feet as measured to the mean height between the plate line and the ridge of the roof. The proposed garage would have a height of 13' 11".

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- 1.2 The proposed garage was erroneously granted a building permit (BLD2006-06735) and the construction that has occurred has been in conformance with the building permit. The existence of that building permit is the applicant's stated justification for the requested variance. Issuance of a building permit in error does not constitute justification for a variance.
- 1.3 The subject parcel is approximately 15,290 square feet in area and zoned R1-15, which requires a minimum lot area of 15,000 square feet. The parcel was created as part of Village Grove Estates subdivision. The subject parcel is of similar size and orientation of development as other parcels in the vicinity and does not display unique circumstances to justify the granting of a variance.
- 1.4 The requested height variance would facilitate the intended use of the garage, which is parking a RV. Additionally, relocating and/or reducing the height of the garage in compliance with Code requirements would result in the limitation of potential uses and require the loss of mature citrus trees. Such justification for the request constitute a self-imposed hardship not related to the land or building.
- 1.5 The applicant has noted the presence of other detached garages in the neighborhood with similar heights and setbacks. It is likely such garages were constructed legally and in compliance with Code requirements because no record of similar variance requests exist for the neighborhood.
- 1.6 The applicant has provided a petition signed by nearly 30 neighboring property owners in support of the requested variance, which includes two of the four properties immediately adjacent to the subject site. The erroneous building permit, and later need for a variance, were brought to the City's attention from a complaint filed by an adjacent neighbor to the west.
- 1.7 The applicant has options available that would allow construction of a detached garage of similar size and height on the parcel that would not require a variance. Such options include construction of the garage without encroachment into the required side yard. Additionally, the garage could remain in current location provided the height were reduced to 10 feet. This would result in a limitation in the intended uses, but would allow a garage similar to what neighboring properties can construct.

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**Board of Adjustment Meeting
December 12, 2006**

- Case No.:** BA06-060
- Location:** 1712 and 1716 West Broadway Road
- Subject:** Requesting a Special Use Permit for a Comprehensive Sign Plan in the M-1 zoning district.
- Decision:** Approved with conditions
- Summary:** Mr. Newcomb explained that the applicant is in agreement with the staff report and recommended conditions of approval with the exception of reducing the height of Sign Type M-1. He further explained that because the project consists of industrial condos, a twelve-foot (12') sign with one (1) column of text would be more appropriate than an eight-foot (8') sign with two (2) columns.
Mr. Johnson gave the history of the site and related the type of development to the need for a new sign. He then explained that the height of Sign Type M-1 is critical to the project and that the property owner would be willing to remove the detached sign for the retail building in order to have a 12' sign for the industrial office condos.
Mr. McVay explained that the vertical sign proposed does not meet the design guidelines for the City. If the twelve-foot sign were to be approved he would recommend a condition requiring the sign be approved by Design Review staff remain.
Mr. Boswell expressed concerns about the font size on a twelve-foot sign. The Board agreed that a twelve foot sign would be appropriate for an industrial function.
- Motion:** It was moved by Boardmember McCray, seconded by Boardmember Boswell to approve this case with the following conditions:
1. *Compliance with the sign plan submitted, except as modified by the conditions listed below.*
 2. *Compliance with all requirements of the Building Safety Division with regard to the issuance of sign permits.*
 3. *Existing attached signage for O Premium Waters, Rite Carpets, Stardust Building Supplies, and US Door that does not meet current Code requirements shall be removed or brought into conformance with current Code requirements under any of the following conditions:*
 - (a) *The quality of the sign cannot be maintained through normal maintenance or repair, or*
 - (b) *A sign permit is required, or*
 - (c) *The tenant space is leased to a new tenant, or*
 - (d) *A new Certificate of Occupancy is required for an existing tenant.*
 4. *Detached signs shall be reviewed and approved by Design Review staff prior to issuance of sign permits. Approved elevations for detached signs shall be submitted for inclusion in the appropriate Design Review case file.*
- Vote:** Passed 5-0

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Finding of Fact:

- 1.1 The Zoning Code would allow an aggregate total of 34 feet in height and 340 square feet in sign area for detached signs along Broadway Road. The proposed Comprehensive Sign Plan would allow an aggregate total of 41 feet in height and 232.75 square feet in sign area between four detached signs along Broadway Road. No new-detached sign would exceed 12 feet in height or 80 square feet in sign area. An existing detached sign of 14 feet in height and 80 square feet in sign area would be refurbished and continued to be used.
- 1.2 The Comprehensive Sign Plan proposes numbers and sign area of attached signs Broadway Mesa Commons, Plaza West Broadway, and a future pad tenant consistent with current Sign Ordinance maximums.
- 1.3 The CSP does not address existing attached signs for the O Premium Waters, Rite Carpets, Stardust Building Supplies, and US Door. Existing non-conforming signs should be brought into conformance with current Code requirements under any of the following conditions: 1) the quality of the sign cannot be maintained through normal maintenance or repair, 2) a sign permit is required, 3) the tenant space is leased to a new tenant, or 4) a new Certificate of Occupancy is required for an existing tenant.
- 1.4 The applicant has shown unique conditions exist related to the development of Broadway Mesa Commons. That development will be located on a "flag lot" with no direct visibility to Broadway Road. Application of Code requirements for Broadway Mesa Commons would allow a three-foot high detached sign with a sign area of 30 square feet. The applicant has proposed a 12-foot high sign with a sign area of 80 square feet to identify 13 potential tenants of the Broadway Mesa Commons Development.

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Respectfully submitted,

Jeffrey McVay, AICP
Senior Planner

Minutes written by Lena Butterfield, Planning Assistant

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