

Board of Adjustment **Minutes - Draft**



City Council Chambers, Lower Level
January 8, 2008

Board members Present:

Mike Clement, Chair
Dianne von Borstel, Vice Chair
Terry Worcester
Scott Thomas
Garret McCray

Staff Present:

Gordon Sheffield
Jeff McVay
Brandice Elliott
Constance Bachman

Board members Absent:

Mike Garcia (excused)

Others Present:

Duane Ray	Paige Stalcup	Gail McCann
Vincent Melcher	Dominic Ricciardone	John Robie
John Reddell	Warren Rucker	Toni Robie
Jim Fowler	Ana Marsh	Dan Maley
William Stalcup	Patric McCann	Eddie J. David, Sr.
Mrs. Eddie J David, Sr	Eddie J David, Jr.	Lorrie Owens
C. Litwinshe	Dione Moen	Lakeland Marsh
Bart Moen	Brandon Hancock	Norm Bourtin
Rachael Gunnell	Edith Haws	

The study session began at 4:42 p.m. The Public Hearing meeting began at 5:38 p.m. Before adjournment at 9:00p.m., the following items were considered and recorded on Board of Adjustment CD #2.

Study Session 4:30 p.m.

- A. The study session began at 4:42 p.m. The items scheduled for the Board's Public Hearing were discussed.
- B. Zoning Administrator Update Mr. Sheffield provided an update to the Board concerning the following: 1) Zoning Ordinance Update – Module 1; 2) revision of Board of Adjustment by-laws; and 3) staff report format and content.

Public Hearing 5:30 p.m.

- A. Consider Minutes from the December 11, 2007 Meeting A motion was made to approve the minutes by Boardmember McCray and seconded by Boardmember Thomas. Vote: Passed 5-0
- B. Consent Agenda A motion to approve the consent agenda as read was made by Boardmember Thomas and seconded by Boardmember von Borstel. Vote: Passed 5-0.

**Board of Adjustment Meeting
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Case No.: BA07-047

Location: 1023 East Broadway Road

Subject: Requesting a Substantial Conformance Improvement Permit (SCIP) to allow development of a daycare facility in the R-4 zoning district

Decision: Continued to the February 12, 2008 hearing

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

Motion: It was moved by Boardmember Thomas, seconded by Boardmember von Borstel to continue case BA07-047 for 30 days to the February 12, 2008 hearing.

Vote: Passed 5-0

Findings: N/A

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Case No.: BA07-058

Location: 6807 East Broadway Road

Subject: Requesting: 1) a Substantial Conformance Improvement Permit (SCIP); and 2) a Special Use Permit (SUP); both in conjunction with a carwash addition to and existing automobile service station in the C-2 zoning district.

Decision: Applicant has withdrawn this request.

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

Motion: It was moved by Boardmember Thomas, seconded by Boardmember von Borstel to withdraw case BA07-058.

Vote: Passed 5-0

Findings: N/A

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Case No.: BA07-066

Location: 6720 East Main Street

Subject: Requesting a Substantial Conformance Improvement Permit to allow the expansion of an existing marine retail and service use in the C-2 zoning district.

Decision: Continuance to the February 12, 2008 hearing

Motion: It was moved by Boardmember Worcester, seconded by Boardmember McCray to continue this case 30 days to the February 12, 2008 hearing.

Vote: Passed 5-0

Finding:

- 1.1 This request would allow the expansion of an existing marine retail and service use through the construction of a new boat repair shop on vacant land adjacent to the existing site, which has operated at this location since 1958. The proposed use is permitted in the C-2 zoning district.
- 1.2 The applicant has requested a number of deviations, primarily related to setbacks and foundation base requirements for both the existing development site and the proposed development site. Compliance with current Code development standards requires significant alteration of the existing development site, including elimination of on-site parking and demolition of existing structures and on the proposed development site. Full compliance would significantly reduce the amount of buildable area, precluding the proposed expansion, as increased circulation area is required for the maneuvering of boats.
- 1.3 The existing pattern of development, the limited area for improvement, and the demonstrated site improvement, warrant no additional conditions of approval within the existing development site. The applicant has proposed incremental improvement to the existing development site to the degree possible without requiring significant alterations. The submitted plan would demonstrably improve a vacant lot with an abandoned house and provide required setbacks from Avalon Street and the south property line.
- 1.4 A primary concern relates to the use of chain link fencing around the perimeter of the site, the limited amount of landscaping adjacent to common property lines, and limited foundation base. Current design guidelines do not permit the use of chain link fencing on the perimeter of commercial developments. The provision of wrought iron or block fencing to replace chain link fencing will bring the site into a greater degree of conformance with current development standards.
- 1.5 Several conditions of approval are recommended to provide improved on-site landscaping. An additional condition has been recommended requiring a minimum five-foot wide at-grade foundation base that utilizes stamped or colored concrete, brick pavers, or other material approved by Design Review

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staff adjacent to the east building face of the proposed boat repair shop.

- 1.6** The recommended conditions of approval have minimal effect on the development of the site, while providing significantly-improved compliance with current development standards, but use minimal land area. Such improved compliance provides additional justification for the requested SCIP and mitigates the requested deviations from Code development standards.
- 1.7** A nonconforming detached sign currently exists on-site. A SCIP cannot provide relief from current Code requirements related to the Sign Ordinance. A condition of approval has been recommended requiring the replacement of this nonconforming detached sign with a conforming detached monument sign.
- 1.8** Given the limited amount of area available for modification of the existing development site and the effect compliance with current development standards would have on the proposed development site, the proposed siteplan and recommended conditions of approval provide substantial conformance with current development standards.

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- Case No.:** BA08-001
- Location:** 2844 E McKellips Road
- Subject:** Requesting: 1) a Development Incentive Permit (DIP); and 2) a Special Use Permit (SUP); both in conjunction with the development of a carwash in the C-2 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 Thomas, seconded by Boardmember von Borstel to approve case BA08-001 with the following conditions:
1. Compliance with the site plan, landscape plan and elevations as submitted, except as modified by the conditions listed below.
 2. Noise abatement of the vacuums and wash tunnel equipment shall be installed to achieve a maximum noise level of 60 Ldn at the rear property line when the equipment is in use. Such noise abatement may be achieved either through the use of noise attenuation measures in the building design, building materials and site planning, or through the use of wash and vacuum equipment designed to generate less sound, such as the use of “screw-blade” style fans for drying vehicles in the wash tunnel.
 3. Installation of a minimum eight-foot (8’) high, fully grouted masonry wall along the rear property line, and wrapping 10’ south from the rear property line along both the east and west side property lines.
 4. Installation of a minimum six-foot (6’) high masonry screening fence from the point where the eight foot high wall ends to a point aligned at least five feet south of the north elevation of the car wash tunnel on the west property line, and a point aligned with the north elevation of the pay canopy on the east property line.
 5. Installation of three-quarters (3/4) of the required amounts of trees and shrubs along the east ninety feet (90’) of rear property line. The west fifty-three feet may be landscaped as depicted on the submitted landscape plan.
 6. Installation of one-third (1/3) of the required amounts of trees and shrubs along the east property line.
 7. Installation of two-thirds (2/3) of the required amounts of trees and shrubs along the west property line.
 8. Installation of all required trees and shrubs along the front property line (area to be planted includes the area to be dedicated for right-of-way). No less than one half the number of trees and shrubs to be planted shall be located a minimum of 65’ from the centerline of McKellips Road.
 9. The existing detached sign shall be replaced with a new detached sign designed to be in compliance with §11-14-3(E) of the Mesa Zoning Ordinance.
 10. Location of any replacement detached sign shall comply with §§11-19-2(D)5 and 11-19-8(C)1(f).
 11. Compliance with all requirements of the Design Review Board.
 12. Dedication of 20’ of additional right-of-way to achieve a 75’ half-street width for the north side of McKellips Road
 13. Compliance with all requirements of the Building Safety Division as related

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to the application for and the issuance of a building permit.

Vote: Passed 5-0

Findings:

DEVELOPMENT INCENTIVE PERMIT FINDINGS

- 1.1 The case site and location meet the criteria listed in the definition of Development Incentive Permit under §11-1-6 of the Zoning Ordinance, and the proposed development is therefore eligible to be considered for development incentives, as specified in §11-13-2.
- 2.1 The degree of incentives being requested are proportionate to the scale of development being proposed. Additional landscaping is being installed along both side yards, and the amount of plant material along the rear property line will be increased.
- 3.1 The architecture of the building is superior to the architecture of the building it replaces. The replacement building shows more interest in how its massing is arranged, in the use of interesting materials, and the use of building forms and color.

SPECIAL USE PERMIT (CAR WASH) FINDINGS

- 2.1 The site has been used for a coin-operated, self-service car wash for several years, and is considered a compatible use under the present development pattern.
- 2.2 The surrounding sites to the east, west and south are all zoned for commercial uses, including an existing full-service car wash across McKellips Road from the case site.
- 2.3 With recommended conditions of approval, noise generated from the car wash will be attenuated by either design or building methods. This includes the use of a masonry wall set perpendicular to the wash line within the wash tunnel to redirect blower noise back toward the street and away from the residences to the north, and the use of a common motor vacuum system, with the mechanical equipment set within an enclosed sound attenuated room. Additional recommends designed to attenuate noise include the use of sound absorption materials on the interior of the wash bay, the use of "screw-type" blades, and the construction of an 8' high masonry wall along the common property line with the residences to the north, wrapping slightly south to help with fugitive sound traveling at an angle from the tunnel.
- 2.4 If constructed with the recommended conditions of approval, the proposed redevelopment of this site from an old self-serve car wash to an automatic bay car wash should be compatible with and not detrimental to surrounding properties.

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Case No.: BA08-002

Location: 1332 North 67th Street

Subject: Requesting variances to allow: 1) a detached accessory building that exceeds the maximum height permitted; and 2) total roof area of detached accessory buildings in excess of 50% of the roof area of the primary dwelling; both in the R1-9 zoning district.

Decision: Denied

Motion: It was moved by Boardmember von Borstel, seconded by Boardmember Thomas to deny case BA08-002.

Vote: Passed 5-0

Findings:

- 1.1 The applicant proposal includes the construction of a 1,622 square foot RV garage within the rear yard of the subject parcel. The proposed RV garage would encroach five feet into the required 25-foot rear yard setback. Code permits a maximum height for such detached accessory buildings of 15 feet (as measured to the median point between the roof plate and roof peak). The proposed RV garage would have a height of 17'-2".
- 1.2 The maximum aggregate roof area for detached accessory buildings permitted by Code is 50 percent of the roof area of the primary dwelling. The proposed roof area of all detached accessory buildings is 2,462 square feet, which is 71 percent of the 3,460 square foot roof area of the primary dwelling.
- 1.3 The RV garage is partially constructed and is the subject of a Code Compliance Case (COD2007-11888), for construction without the benefit of a building permit.
- 1.4 Options are available to allow construction of a detached accessory building within the buildable area. The size of the accessory building would need to be reduced to not exceed 50 percent of the roof area of the primary dwelling.
- 1.5 The degree of required reduction to the accessory building can be limited by taking advantage of other options, including: increasing the roof area of the primary dwelling or demolishing the existing accessory building. A significant addition to the primary dwelling roof area is possible without exceeding the maximum lot coverage permitted (40%). Relocation would allow a building with a maximum height not to exceed the height of the primary dwelling.
- 1.6 The justifications noted by the applicant relate to self-imposed hardships and not unique conditions of the land. The subject parcel is of similar size and orientation as other parcels in the vicinity, and it exceeds the minimum required size for lots in the R1-9 zoning district. Unusual conditions related to the land are not present and no development challenges exist to support the variances requested.

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- Case No.:** BA08-003
- Location:** 1129 East Sorenson Street
- Subject:** Requesting a Special Use Permit (SUP) to allow livestock in excess of the maximum number permitted in the R1-43 zoning district.
- Decision:** Approved with conditions
- Motion:** It was moved by Boardmember McCray seconded by Boardmember Worcester to approve case BA08-003 with the following conditions:
1. Compliance with the site plan submitted, except as modified by the conditions listed below.
 2. Stalls utilized for the keeping of horses shall be cleaned and re-bedded daily.
 3. An insecticide for flies shall be applied daily between the months of June and September.
 4. The arena/riding area shall be sprayed with water for dust control twice daily when used for pasturing.
 5. The arena/riding area shall be sprayed with water for dust control before riding horses.
 6. Commercial boarding of livestock is prohibited.
- Vote:** Passed 5-0
- Findings:**
- 1.1 The requested SUP would permit seven head of livestock on the subject 1.58 parcel, where the Mesa City Code would permit three head of livestock. Recent changes to the Zoning Code would permit the keeping of livestock in excess of this subject to finding the use is consistent with Section 11-4-3 (D).
 - 1.2 The applicant has noted: 1) they have kept three to seven horses on the property for the last 23 years; 2) the stalls are cleaned and re-bedded daily; 3) a fly spray is applied daily during the summer months; 4) from early May to late September four to six of the horses are moved to cooler climates; 5) Bermuda grass is grown yearly to control dust within the pasture; and 6) the arena/riding area is water to control dust. Additionally, a letter from the Lehi Community Improvement has been provided in support of the requested SUP.
 - 1.3 Mesa Animal Control supports the requested SUP based on the measures taken by the applicant to control dust, insects, and odors, as well as the maintenance of the pasture area in Bermuda grass and the keeping of a number of the horses in a different location for approximately five months each year. This support further notes the lack of complaints related to the keeping of the requested number of horses.

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Case No.: BA08-004

Location: 500 West Southern Avenue

Subject: Requesting a Special Use Permit to allow modification of a Comprehensive Sign Plan in the C-2 zoning district.

Decision: Approved with conditions

Motion: It was moved by Boardmember McCray seconded by Boardmember von Borstel to approve case BA08-004 with the following conditions:

1. Compliance with the sign plan submitted, except as modified by the conditions listed below.
2. The proposed monument sign shall be reviewed and approved by Design Review staff for compliance with Design Guidelines before submittal for sign permits.
3. The existing monument sign, identified by Photo C, shall be replaced with a new monument sign that utilizes the same design approved by Design Review staff or modified in a manner that includes significant design characteristics, such as color, material, and design elements from the new detached sign as approved by DRB staff. The maximum height shall be twelve feet (12') and maximum sign area shall be eighty square feet (80 s.f.).
4. Existing nonconforming attached tenant signage 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.
5. Compliance with all requirements of the Building Safety Division with regard to the issuance of sign permits.

Vote: Passed 5-0

- Findings:**
- 1.1 The proposed Comprehensive Sign Plan (CSP) modification would allow the replacement of one existing seven-foot tall, 60 square foot detached sign, the maintenance of an existing seven-foot tall, 60 square foot detached sign, and the maintenance of existing attached signage for individual tenants.
 - 1.2 The proposed aggregate sign area and height of detached signs is less than would be allowed by current Code maximums. With the exception of the Super Pawn signage, the proposed CSP allows aggregate attached sign area consistent with current Code maximums. With the exception of the Super Pawn signage, the number of attached signs proposed is consistent with current Code.
 - 1.3 As justification for the proposed CSP modification, the applicant notes: 1) the new monument sign proposed will replace an old and beat up sign in the same

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location; and 2) the second monument sign has been recently repainted and new faces added.

- 1.4** Concerns relate to the compliance of existing and proposed detached signs with current Design Guidelines and the continued use of the detached sign identified by Photo C, resulting in detached signage that does not follow a consistent sign design. Requiring the proposed monument sign receive staff level Design Review for compliance with Design Guidelines and the detached sign identified by Photo C be replaced with a new monument sign that utilizes the same design as the applicant proposed sign addresses these concerns.

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Case No.: BA08-005

Location: 715 North Country Club Drive

Subject: Requesting a Development Incentive Permit (DIP) to allow development of a multiple resident complex in the R-4 zoning district.

Decision: Continued to the February 12, 2008 hearing

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

Motion: It was moved by Boardmember Thomas, seconded by Boardmember von Borstel to continue case BA08-005 for 30 days to the February 12, 2008 hearing.

Vote: Passed 5-0

Findings: N/A

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Case No.: BA08-006

Location: 1928 East Intrepid Avenue

Subject: Requesting a variance to allow required parking within the required front yard in the R-2-PAD zoning district.

Decision: Continued to the March 11, 2008 hearing

Motion: It was moved by Boardmember Worcester, seconded by Boardmember McCray to continue case BA08-006 for 30 days to the March 11, 2008 hearing.

Vote: Passed 5-0

Findings:

- 1.1 The requested variance to allow a parking space within the front setback is required to accommodate the conversion of a garage into a recreation room that has occurred without a building permit. One legal parking space is provided and two additional spaces are proposed within the front setback.
- 1.2 The need for the proposed parking space is a self-imposed hardship in that the conversion of the garage into a recreation room without obtaining the necessary approvals has created the need for a variance.
- 1.3 The approval of a variance for the parking space located in the front yard would grant a special privilege unavailable to other residents in this development that have not converted their garage into livable area without a building permit.

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Case No.: BA08-007

Location: 3021 East Laurel Street

Subject: Requesting a variance to allow a carport addition to encroach into the required side yard in the R1-9 zoning district.

Decision: Denied

Motion: It was moved by Boardmember McCray seconded by Boardmember Thomas to deny case BA08-007:

Vote: Passed 5-0

Findings:

- 1.1 The proposed attached carport structure would result in a 0-foot side yard setback in the R1-9 district, which requires a minimum 7-foot setback. By Code, attached structures must be located within the buildable lot area. The lot is 9,291 square feet in size and has been developed in a manner similar to surrounding properties.
- 1.2 The applicant's justification for the carport includes the similarity of this structure to others constructed in the neighborhood and in keeping with the character, as well as letters of consent from several neighbors.
- 1.3 The applicant has not provided sufficient justification related to the land, which would justify the requested variance. The need for a variance stems from the property owner constructing a carport without a building permit. This need was created by the property owner and is based on a self-imposed hardship.

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- Case No.:** BA08-008
- Location:** 551 South Spur
- Subject:** Requesting a variance to allow a detached accessory building to exceed the maximum height permitted in the R1-6 zoning district.
- Decision:** Denied
- Motion:** It was moved by Boardmember Worcester seconded by Boardmember McCray to deny case BA08-008.
- Vote:** Passed 5-0
- Findings:**
- 1.1 The proposed detached garage and storage structure is 18'-6" tall and requires a variance for height. The Zoning Code allows for a maximum height of 15-feet when a structure is located in the required rear yard.
 - 1.2 The combined roof area on the property, including the detached garage and storage structure, is 41%, where the Zoning Code permits a maximum of 40%.
 - 1.3 In relation to the land, the applicant's justification notes the lot is unique in that it is the only one on the street that faces a retention basin, and it is significantly larger than properties located elsewhere in the subdivision. The property is 10,158 square feet in area, where only 6,000 square feet is required in the R1-6 zoning district.
 - 1.4 The fact that the lots are larger provides more alternatives to locate the detached garage and storage structure on the property in a manner consistent with the Zoning Code and does not provide sufficient justification for a variance. The detached garage and storage structure would not require a variance if it were to be shifted 7-feet west of its proposed location.
 - 1.5 The need for a variance is self-imposed. Strict compliance with current Code requirements would not deprive this property of the ability to have a detached garage.
 - 1.6 The livable area of the home far exceeds the average area of homes in this neighborhood. While the average size of a home in this area is 1,768 square feet, the applicant's home is nearly twice that at 3,488 square feet. A variance would constitute a special privilege unavailable to other properties in the vicinity that have maintained smaller roof areas and complied with height limitations.

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Respectfully submitted,

Jeffrey McVay, AICP
Senior Planner
Secretary, Board of Adjustment

Draft written by Constance Bachman, Planning Assistant

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