

# **Board of Adjustment Minutes**

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**City Council Chambers, Lower Level  
February 14, 2006**

**Board members Present:**

David Shuff, Chair (Left at 6:45 p.m.)  
Randy Carter  
Mike Clement  
Dina Higgins  
Dianne von Borstel  
Roxanne Pierson

**Board members Absent:**

Greg Lambright (excused)

**Staff Present:**

Gordon Sheffield  
Jeff McVay  
Lena Butterfield  
John Wesley

**Others Present:**

Marney Frye  
Carlos Montoya  
Kevin Crockett  
Brian Eichenberg  
Larry Rozema  
Clarice Rozema  
Doug Himmelberger  
Kelee Walton  
David Udall

The study session began at 4:30 p.m. The Public Hearing meeting began at 5:30 p.m. Before adjournment at 7:02 p.m., the following items were considered and recorded on Board of Adjustment Tapes #340, 341, 342.

**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 December 13, 2005 Meeting A motion was made to approve the minutes by Boardmember von Borstel and seconded by Boardmember Pierson. Vote: Passed 6-0
- B. Consent Agenda A motion was made by Boardmember Higgins to approve the consent agenda as read and seconded by Boardmember von Borstel. Vote: Passed 6-0

**Board of Adjustment Meeting  
February 14, 2006**

**Case No.:** BA05-039

**Location:** 905 North Country Club Drive

**Subject:** Requesting a Substantial Conformance Improvement Permit to allow the development of an office building in the O-S district.

**Decision:** Continued to March 21, 2006

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

**Motion:** It was moved by Ms. Higgins, seconded by Ms. von Borstel continue this request for 30 days.

**Vote:** Passed 6-0

**Finding of Fact:** N/A

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**Case No.:** BA05-049

**Location:** 2020 East Brown Road

**Subject:** Requesting a Special Use Permit to allow the modification of a Special Use Permit to allow a Commercial Communication Tower in the O-S zoning district.

**Decision:** Continued to March 21, 2006

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

**Motion:** It was moved by Ms. Higgins, seconded by Ms. von Borstel continue this request for 30 days.

**Vote:** Passed 6-0

**Finding of Fact:** N/A

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**Board of Adjustment Meeting  
February 14, 2006**

**Case No.:** BA05-050

**Location:** 1142 West Guadalupe Road

**Subject:** Requesting a Special Use Permit to allow a modification of a Comprehensive Sign Plan 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 Ms. Higgins, seconded by Ms. von Borstel 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 current Code requirements unless modified by the comprehensive sign plan or the conditions listed below.*
3. *Compliance with all requirements of the Building Safety Division with regard to the issuance of sign permits.*
4. *New attached signage shall comply with the requirements of Section 11-19-6 (E).*
5. *Attached signage 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.*
6. *Detached signage that does not meet current Code requirements or comply with the detached sign design theme for the group commercial center shall be 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) *A building permit is required for any tenant advertised on the associated detached sign.*

**Vote:** Passed 6-0

**Finding of Fact:**

- 1.1 The proposed plan provided a phased method for bringing non-conforming signs into compliance with current standards for height, area, number and design.
- 1.2 Regarding attached signage, the Comprehensive Sign Plan proposes requirements that essentially meet Zoning Code requirements.
- 1.3 One non-conforming monument sign will be replaced with a conforming multi-tenant monument sign.

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**Board of Adjustment Meeting  
February 14, 2006**

**Case No.:** BA06-004

**Location:** 240 West Baseline Road

**Subject:** Requesting a Special Use Permit for a Comprehensive Sign Plan for a group commercial development in the M-1 zoning district.

**Decision:** Approved with conditions

**Summary:** Ms. Marney Frye, representing Wal-Mart, explained that she redesigned the proposed sign plan without any of the modifier signs. She added that Wal-Mart wants to keep the Tire and Lube sign directional and provided additional evidence that when a similar sign was removed from a store in Chandler they lost sales because people could not find the tire and lube center. She did, however reduce the size of that sign.

**Motion:** It was moved by Mr. Clement, seconded by Ms. von Borstel, to approve case BA06-004 with the following conditions:

1. *Compliance with the Comprehensive Sign Plan as submitted, except as modified by the conditions listed below.*
2. *Detached monument signs TM-1, TM-2, TM-3, WM-1, WM-2, and PM-1 shall comply with the size and height dimensions shown on the sign elevation exhibits of the Comprehensive Sign Plan (Pages WM-1/WM-2, TM-1/TM-2/TM-3, and PM-1).*
3. *The number of attached signs for the Wal-Mart Supercenter shall be limited to twelve (12), identified as sign numbers 1, 2, 3, 4, 5, 6, 7, 8, 11, and 12 on the sign chart found on the building elevation exhibit of the Comprehensive Sign Plan and two (2) future tenant signs, not counting modifier signs.*
4. *Compliance with the requirements of the Building Safety Division in the issuance of sign permits. 1) removing condition of approval 4; and 2) revising condition of approval 3 to allow 12 attached signs, including signs 5 and 6. There was a second by Boardmember von Borstel.*

**Vote:** Passed 6-0

**Finding of Fact:**

- 1.1 The applicant has proposed detached signage along Baseline Road and Country Club Drive that is significantly less than could be allowed by the current Sign Ordinance.
- 1.2 The approved Wal-Mart Supercenter is significant in size, 207,751 square feet, and distance from Baseline Road, approximately 430 feet. An increase in the number and area of attached signs is justified by the need for the signs to be proportional to the scale of the building and visible from Baseline Road.

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**Board of Adjustment Meeting  
February 14, 2006**

**Case No.:** BA06-007

**Location:** 8106 E Fountain Street

**Subject:** Requesting: 1) A Special Use Permit for an Accessory Living Quarters that is not directly accessible from the primary dwelling; and 2) a variance to allow an Accessory Living Quarters to encroach into the required rear yard; both in conjunction with an existing single residence in the R1-9 zoning district.

**Decision:** Continued to March 21, 2006

**Summary:** Mr. Carlos Montoya, applicant, explained that if the proposed accessory living quarters would not be architecturally integrated with the main residence is built anywhere else than the proposed site. He noted the living room, in particular, would loose natural light. He added that he believed his client meets the requirements for a variance because the original builder is the one that positioned the house, and there are other accessory structures in the neighborhood. He explained that he did not receive any negative response from the public notification procedures prior to the hearing.

Mr. Kevin Crockett, property owner, explained that he would like to build the accessory living quarters so that his elderly mother could live closer to him.

Boardmember von Borstel inquired if the board can take the other structures into account. Mr. Gordon Sheffield, Zoning Administrator, explained that: 1) the board should consider the facts of each case independently, and decide each case on its own merit; 2) if the accessory structure is not habitable it is generally allowed to encroach into setbacks, however, habitable structures are usually not permitted to encroach into required rear or side yards; and 3) The builder did place the house on the lot, but the homeowner inherits the decisions of the builder (that is, the placement of the home "runs with the land").

Boardmember Clement suggested that Mr. Crockett look into other options with staff to avoid the variance, or significantly reduce the encroachment into the rear setback that requires a variance.

**Motion:** It was moved by Ms. Higgins, seconded by Ms. Carter to continue case BA06-007 for 30 days.

**Vote:** Passed 6-0

**Finding of Fact:** N/A

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**Board of Adjustment Meeting  
February 14, 2006**

**Case No.:** BA06-008

**Location:** 9925 E Baseline Road

**Subject:** Requesting a modification of a Special Use Permit for a Comprehensive Sign Plan for a group commercial center 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 Ms. Higgins, seconded by Ms. von Borstel to approve this case, conditioned upon the following:

1. *Compliance with the comprehensive sign plan modifications and narrative submitted except as modified by the following conditions.*
2. *Attached signs for the primary anchor tenant (identified as Bashas') shall be limited to five signs, totaling 300 square feet.*
3. *Compliance with the requirements of the Building Safety Division regarding the issuance of sign permits.*

**Vote:** Passed 6-0

**Finding of Fact:**

- 1.1 The requested modification of a Comprehensive Sign Plan would allow one additional attached sign of approximately 30 square feet on the Bashas' grocery store. The sign would identify a Chase branch bank location within the grocery store, a common occurrence for grocery stores. The Bashas' grocery store is the only building within the group commercial development approved for attached signage in excess of current Code maximums. With the proposed sign, the Bashas' would have five attached signs and a maximum sign area of 300 square feet.
- 1.2 The existing Comprehensive Sign Plan provides six detached signs with aggregate heights and sign area of approximately 44 feet and 268 square feet, respectively. This is 21 feet less in height and 382 square feet less in sign area than the maximums allowed by current Code.
- 1.3 The additional attached sign being requested is relatively low on the building, and will be set back a considerable distance from Baseline Road. As such, its primary function will be to attract the attention of consumers already on the site.
- 1.4 Unique conditions exist because of the distance of the grocery building from the street, the relatively low height of the modifier sign on the building, and the relatively small size of the sign proportionately to the overall size of the grocery building.

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**Board of Adjustment Meeting  
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**Case No.:** BA06-009

**Location:** 352 E Holmes Avenue

**Subject:** Requesting variances to allow: 1) accessory buildings to encroach into the required rear and side yards; 2) lot coverage that exceeds the permitted maximum; and 3) a fence that exceeds the maximum height permitted in the front yard; all in conjunction with an existing single residence in the R1-6 zoning district.

**Decision:** Approved with conditions

**Summary:** Mr. Rozema, property owner, explained that he would really like to keep the newest of three storage sheds that he built. He stated that he called Building Safety Division staff and was informed that he did not need a building permit if the building is under 200 square feet. He did not realize that other requirements would apply, like the total floor area of all the accessory buildings on the site, or zoning requirements for the placement of the building. He asked that if he did have to tear down the structure that he be given 30 days to do so, because he works 6 days a week.

Mr. Jeff McVay, staff, explained that if there is one accessory structure under 200 square feet, then a building permit is not required. However, once the total floor area of all the accessory structures on the property total over 200 square feet, then a building permit is required. The staff recommendation would allow Mr. Rozema to keep his older accessory buildings, but remove the newest building, which had been built in front of the front line of his residence.

**Motion:** A motion was made by Mr. Clement, seconded by Ms Pierson, to approve case BA06-009, conditioned upon the following:

1. *The existing, approximately 80 square foot, accessory building identified on the site plan as "new storage addition" shall be removed from the property.*
2. *No expansion of the accessory buildings identified on the site plan as "old storage", "patio", and "spa" shall be allowed.*
3. *No additional accessory buildings shall be allowed on the subject parcel.*
4. *Mr. Rozema has 30 days to remove the accessory building identified on the site plan as "new storage addition".*
5. *Allowing Mr. Rozema 30 days to comply with the conditions of approval.*

**Vote:** Passed 6-0

**Finding of Fact:**

- 1.1 The existing accessory buildings and six-foot fence require approval of variances. The accessory buildings encroach into the required rear and side yards. The fence exceeds the maximum height permitted in the front yard setback of 3'6". Review of this case should be made as if it were still just a plan on paper, giving neither penalty nor concern for having to maintain the applicant's investment.

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- 1.2** The parcel is approximately 4,000 s.f. in area in an area zoned R1-6 which requires a minimum lot size of 6,000 s.f. The parcel was created through the Silver Key Estates subdivision, and consequently was a pre-existing condition not created by the landowner. Under current Code requirements, other properties in the neighborhood and Zoning District would be allowed to construct similar accessory buildings. Strict application of the Code would deprive this property of privileges available to similar properties.
- 1.3** The parcel was the subject of a 1982 Board of Adjustment case (BA82-026), which approved a variance to allow construction of the existing dwelling on a substandard parcel. When constructed, the dwelling was oriented with the front yard adjacent to Holmes Avenue. Due to the orientation of the home, the 80 s.f. accessory building identified as “new storage addition” on the site plan would be located in front of the front line of the dwelling and in front of the front line of the adjacent dwelling located on the key lot to the west.

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**Board of Adjustment Meeting  
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**Case No.:** BA06-005

**Location:** 1051 North Dobson Road

**Subject:** Requesting a Special Use Permit for a Comprehensive Sign Plan for a group commercial center in the C-2 and C-3 zoning districts.

**Decision:** Approved with conditions

**Summary:** Mr. David Udall, representing the owner and applicant, expressed agreement with staff's review of the case and conditions for approval with the exceptions of Conditions 5 and 6. Condition 5 relates to the placement of signs on the elevation facing the Tempe Canal of Home Depot, Wal-Mart, Shops I, Pad 16, and Major D. Condition 6 relates to the placement of modifier signs at a maximum height of eight feet. Mr. Udall explained that the main entrance to the Pad 16 building would face south, towards the Tempe Canal, and because the entrance to the building would be on that side, his client would prefer to place a sign near the entrance. Additionally, the south elevation of Pad 16 building will be some 900 feet from residential uses, which are located across the Tempe Canal from the case site.

Ms. Marney Frye, representing Wal-Mart, explained that the proposed height of the modifier signs, approximately 12 to 13 feet from grade, was based on centering the modifier signs on an architectural band. Requiring the signs to be lowered to eight feet would not work from an architectural standpoint because the signs would then be placed on top of windows on the building. Ms. Frye further stated that the Wal-Mart, and for that matter Home Depot as well, would be located some 1,800 feet from Dobson Road. Ms. Frye offered to reduce the letter size of modifier signs on the Wal-Mart from 18 inches to 12 inches.

It was the consensus of the Board that a sign on the south elevation of Pad 16 is justified and would not be detrimental to the adjacent neighborhood. The Board then discussed at length with staff and the interested parties the placement of modifier signs. Boardmember Higgins expressed concerns with the sign plan, with her main concern being the placement of modifier signs. She interprets modifier signs as being used primarily for advertising purposes, and fears a precedent will be set if the Board approves the proposed height of modifier signs. Boardmember Higgins expressed further concern with the "Tool Rental Center" cabinet sign on the Home Depot, indicating her preference for individual letters (in keeping the Mesa Design Guidelines). Boardmembers Higgins, Clement, Schuff and Carter felt the use of individual letters for that sign would be more appropriate.

**Motion:** Boardmember Higgins made a motion to approve case BA06-005 with conditions, including removal of allowances for modifier signs. The motion died for lack of a second.

**Motion:** It was the moved by Mr. Clement, seconded by Ms Pierson, case BA06-005 be approved, conditioned upon the following:

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1. *Compliance with the sign plan as submitted, except as modified by the conditions listed below.*
2. *Review and approval of attached signs for the "Bass Pro Shop" (Sub-Area B) by the Board of Adjustment as a separate submittal. (That is, this portion of the case being tabled until a new submittal is received).*
3. *Review and approval of Special Use Permit(s) for Comprehensive Sign Plan(s) for Sub-Areas E and F at future date(s) by the Board of Adjustment.*
4. *Review and approval of every detached sign within Sub-Area A (Auto Park) by the Board of Adjustment and by the Design Review Board before the submittal of an application for a sign permit. (The review by both Boards is to be as an informational item to assure compliance with design, size and number criteria of this comprehensive sign plan).*
5. *No signs may be placed on rear building elevations that parallel or directly face onto the Tempe Canal. Based on the present plan, this would include the southeast elevations of Home Depot and Wal-Mart, and the south elevations of Shops I and Major D. This condition does not apply to Pad 16.*
6. *All modifier signs for Wal-Mart shall be allowed with letters not to exceed twelve inches (12") high and placed so the modifier sign is centered on the architectural sign band of the building (approx. 12 to 13 feet above finished floor grade).*
7. *All modifier signs for Home Depot and Major D shall be allowed with letters not to exceed twelve inches (12") high and placed so the top of the modifier sign is no higher than twelve feet (12') above finished floor height.*
8. *Modifier signs for all other buildings in Sub-area D shall be limited to letters not to exceed twelve inches (12") and placed no higher than eight feet high from finished floor height on the building.*
9. *The placement of modifier signs attached to Auto Park tenant buildings shall follow the Sign Plan, as submitted.*
10. *Directional signs (such as entrance and exit signs) may be placed higher on the building, subject to review and approval by the Zoning Administrator through an administrative review process.*
11. *Attached signs for Wal-Mart and The Home Depot shall be as depicted on pages 42 and 44 of the graphics submittal for the Mesa Riverview Comprehensive Sign Plan. All attached signs not specifically associated with a building entry or store name shall be considered as "modifier signs", and shall comply with the requirements of Conditions 6 or 7, as applicable.*

**Vote:** Passed 4-1 (Ms. Higgins Voting Nay)

**Finding of Fact:**

- 1.1 The retail major and anchor tenants for Sub-Area D generally face away from the public streets, or are placed a considerable distance from the street. Attached sign areas above ordinance maximums, as proposed, are needed to allow the signs to be reasonably visible and/or legible from the public street under those conditions. These major tenant buildings are also larger than standard size retail stores, and the larger signs will appear proportional to the size of the buildings.
- 1.2 The "Paseo", located in the entertainment sub-area, is surrounded on three sides by buildings, and has only a narrow opening to the west. All of the "unlimited" attached signage being requested will be placed on building elevations facing inward towards the Paseo. As such, there will be limited visibility of this signage from outside of the Riverview site. The larger signs requested for the theatre has the same limited visibility.

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- 1.3 Unique conditions are present in the form of both the development site, and in the type of development being requested. The overall scale of the project is considerably larger than typical commercial centers, and many of the buildings will be either larger than typical, located further away from the public street than typical, or both.
  
- 1.4 The Wal-Mart, Home Depot, and Major D, are located 1,800 Feet from Dobson Road. This distance is sufficient justification for the placement of modifier signs on the Wal-Mart, Home Depot, and Major D at a 12-foot height. Additionally, this circumstance should be recognized as being unique to this site.

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Respectfully submitted,

Gordon Sheffield, AICP  
Zoning Administrator

Minutes written by Lena Butterfield, Planning Assistant

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