

Board of Adjustment Minutes



City Council Chambers, Lower Level July 10, 2007

Board members Present:

Dina Higgins, Chair
Garrett McCray
Scott Thomas
Terry Worcester

Board members Absent:

Mike Clements (excused)
Dianne von Borstel (excused)
Mike Garcia (excused)

Staff Present:

Gordon Sheffield
Jeff McVay
Jim Hash
Rob Dmohowski
Constance Bachman

Others Present:

| | | |
|------------------|---------------------|------------------|
| Oscar Tinajero | Al Wilsey | Sharon Trites |
| Manuel Aguirre | Scott Wunderlich | Jacqueline Hager |
| J. Ryan Woods | Randy Pridgeon | Lisa Lintz |
| Collin Gibbons | Ken Eller | Scott Portrey |
| Jennifer Gibbons | Charles Terry | Shirley Kelly |
| Bruce Hager | Sandra Huston | Ben Thomason |
| Denny Thomason | Ralph Trites | Jeff Taylor |
| Dennis Monce | Aaron Jacobs | Thomas M. Huston |
| Ken Grochocki | David Woods | Greg Newton |
| Mary Newton | Roseann Taylor | Marge Grochocki |
| Ryan Woods | Larry Merrix | Joe Comparin |
| Alan Torgerson | Jim Ball | Karen Kerr |
| John King | William Langoon | John Corsaro |
| Tracy Taylor | Christine Clevenger | Myra Bellamy |
| Donna Corsaro | Rafael Casillas | M. Carnicelli |
| Don Hendrickson | Honeylynn Terry | Jane DeCola |

The study session began at 4:30 p.m. The Public Hearing meeting began at 5:30 p.m. Before adjournment at 7:15 p.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 4:30 p.m. The items scheduled for the Board's Public Hearing were discussed.

Public Hearing 5:30 p.m.

- A. Consider Minutes from the June 12, 2007 Meeting A motion was made to approve the minutes by Boardmember McCray and seconded by Boardmember Worcester. Vote: Passed 4-0
- B. Consent Agenda A motion to approve the consent agenda as read was made by Boardmember Worcester and seconded by Boardmember Thomas. Vote: Passed 4-0

**Draft
Board of Adjustment Meeting
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Case No.: BA07-013

Location: 3215 South Sossaman Road

Subject: Requesting: 1) variances to allow reductions in the landscape setbacks and landscape plantings along the north and east property lines; and 2) a Special Use Permit, both to allow the development of athletic facilities in conjunction with a place of worship in the AG zoning district.

Decision: Continued to the August 14, 2007 hearing.

Summary: This case was removed from the consent agenda at the request of Pastor Al Wilsey, Pastor of Paloma Church. Due to the addition of new board members and large number of interested neighbors; the applicant elected to present the case to the Board despite the request to continue the case to August 14, 2007.

The applicants provided letters of support of the proposal and the following people spoke in favor of the ballfields:

| | | |
|--------------|--------------|----------------|
| Larry Merrix | Joe Coudarin | Alan Torherson |
| Jim Ball | | |

Ben Thomason and Lisa Lintz spoke on behalf of the following people in opposition of the ballfields:

| | | |
|---------------------|------------------|------------------|
| Bruce Hager | Scott Wunderlich | Sharon Trites |
| Denny Thomason | Charles Terry | Jacqueline Hager |
| Dennis Monce | Sandra Huston | Scott Portrey |
| Ken Grochocki | Ralph Trites | Shirley Kelly |
| Mary Newton | Aaron Jacobs | Ben Thomason |
| Ryan Woods | David Woods | Jeff Taylor |
| Alan Torgerson | Roseann Taylor | Thomas M. Huston |
| John King | Larry Merrix | Greg Newton |
| Tracy Taylor | Jim Ball | Marge Grochocki |
| Donna Corsaro | William Langoon | Joe Comparin |
| Don Hendrickson | Karen Kerr | M. Carnicelli |
| Christine Clevenger | John Corsaro | Jane DeCola |
| Rafael Casillas | Myra Bellamy | |
| Honeylynn Terry | | |

Mr. McVay noted that this case was on the agenda to be continued to the August 14, 2007, Board of Adjustment hearing.

Motion: It was moved by Boardmember Higgins, seconded by Boardmember McCray to continue this case to the August 14, 2007 hearing.

Vote: Passed 4-0

Finding of Fact: N/A

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**Draft
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Case No.: BA07-019

Location: 1040 East Main Street

Subject: Requesting a Substantial Conformance Improvement Permit (SCIP) to allow the redevelopment of a restaurant use in the C-3 zoning district.

Decision: Approved with conditions

Summary: Oscar Tinajero, applicant, presented the requested Substantial Conformance Improvement Permit. He explained that the drive-thru window is very important to the business and concerns related to vehicle queuing are addressed through the speed of service and the fact that vehicles are picking up phoned-in orders. In addition, the applicant applied the ideas of Boardmember McCray that included a drive-in style park and order design.

Mr. McVay noted that the site meets the criteria for review of a SCIP and that the applicant has done a good job of trying to address all Board and staff concerns. Additionally, it was noted that the Transportation Division staff did not have concern with the location of the drive-thru entrance off Main Street as that lane will be dedicated to bus-rapid-transit in the future. Based on that statement Mr. McVay recommended the approval of the SCIP with conditions

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

1. *Compliance with the site plans submitted, except as modified by the conditions below.*
2. *Landscape plantings shall complement existing landscaping in the vicinity.*
3. *Compliance with all requirements of an Administrative Design Review.*
4. *Compliance with all requirements of the Building Safety Division in the issuance of building permits.*

Vote: Passed 4-0

Finding of Fact:

- 1.1 Compliance with current Code requirements associated with the request would require the demolition of existing buildings, would eliminate on-site parking, and would preclude the use of the site for a lawfully allowed use.
- 1.2 Transportation Division staff have noted that the parking lane along Main Street will be utilized for bus-rapid-transit in the future. For that reason the possibility for conflicts related to the drive-thru lane and entrance to the site have been decreased.
- 1.3 The applicant has proposed improvements to the site which include increased landscape areas, enclosure of the solid waste dumpster, and architectural review by Design Review staff.

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- 1.4 Given the size of the site, the degree of conformance possible is limited without requiring the demolition of buildings. The applicant's proposal represents substantial conformance with current Code requirements.

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- Case No.:** BA07-031
- Location:** 6548 East Bambi Drive
- Subject:** Requesting: 1) a determination of the lot front; 2) a variance to allow the total roof area of multiple detached accessory buildings to exceed the maximum allowed; and 3) a variance to allow the height of a detached accessory building to exceed the maximum allowed; all in the R1-9 zoning district.
- Decision:** Approved with conditions
- Summary:** The applicants, Collin and Jennifer Gibbons, presented their case to the Board. Chair Higgins questioned Mr. Gibbons about commercial use of the workshop. Mr. Gibbons assured the Board that the shop was strictly for personal use.
- Mr. Woods, neighbor, spoke in favor of the request. The Boardmembers discussed the neighborhood and noted that many similar structures currently exist. They additionally discussed the current configuration of development on the lot.
- In response to the discussion, Mr. Hash noted that the subdivision was annexed from Maricopa County and no similar structures received a variance through the City.
- Motion:** It was moved by Boardmember Worcester, seconded by Boardmember McCray to approve this case with the following conditions:
1. *Compliance with the site plans submitted, except as modified by the conditions below.*
 2. *The detached accessory building shall be used strictly for private residential use and any commercial activity shall void the variance.*
 3. *The patio shall remain open on three sides.*
 4. *Compliance with all requirements of the Building Safety Division in the issuance of building permits.*
- Vote:** Passed 4-0
- Finding of Fact:**
- 1.1 The Zoning Ordinance defines the lot front as the shorter of the two sides adjacent to the street. In this instance the front would be Bambi Drive. The applicant's house was originally constructed with the front door of the home orientated towards Holiday Drive.
 - 1.2 The requested variance would allow the applicant to exceed the maximum detached accessory building roof coverage of 50 percent of the roof area of the primary dwelling. The proposal would result in the detached garage having a roof area that is 64 percent of the size of the primary dwelling.
 - 1.3 The orientation of the parcel with two street frontages, the location of development on the lot, and the home design and construction utilized by the original owners represent unique conditions that were established at the time

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of construction.

- 1.4** The strict application of the Zoning Ordinance would deprive the owner of the ability to build a detached structure of a size and height consistent with those currently existing in the neighborhood. Such structures were allowed by Maricopa County in this neighborhood before annexation.

- 1.5** The adjustment would not grant a special privilege inconsistent with the limitations upon other properties in the vicinity and would authorize the applicant to build a shop that would be consistent with the neighborhood.

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Case No.: BA07-032

Location: 1959 East Broadway Road

Subject: Requesting a Substantial Conformance Improvement Permit (SCIP) to allow the redevelopment of an existing automobile repair garage into a retail convenience store in association with an automobile service station; 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 Worcester, seconded by Boardmember Thomas to approve this case with the following conditions:

1. *Compliance with the site plan submitted, except as modified by the conditions below.*
2. *All non-conforming signs shall be replaced or brought into conformance with current Code requirements.*
3. *No Improvements or signs shall be allowed within the right-of-way to be dedicated with this development.*
4. *Removal and replacement of all dead or dying plants.*
5. *Landscaping within the setbacks from the south property line shall be supplemented to provide a minimum total of four (4), twenty-four inch (24") box trees and sixteen (16), five (5) gallon shrubs.*
6. *Landscaping within the setbacks from the west property line shall be supplemented to provide a minimum total of three (3), twenty-four inch (24") box trees and thirteen (13), five (5) gallon shrubs.*
7. *The landscape area adjacent to the accessible parking space and Broadway Road shall include a minimum total of two (2), twenty-four inch (24") box trees and ten (10), five (5) gallon shrubs.*
8. *The landscape area located at the corner of Broadway and Gilbert Roads shall include a minimum total of one (1), twenty-four inch (24") box tree and four (4), five (5) gallon shrubs.*
9. *Compliance with all requirements of an Administrative Design Review.*
10. *Compliance with all requirements of the Building Safety Division in the issuance of building permits.*

Vote: Passed 4-0

Finding of Fact:

- 1.1 The requested SCIP would permit the redevelopment of an auto service station including the removal of auto service bays, which will be replaced with expanded floor area for convenience store use. Such modification is an intensification of the site, which would require compliance with current Code requirements.
- 1.2 As justification, the applicant has noted: 1) conformance with current setback requirements would require the demolition of existing structures, 2) previous increases in the width of ROW for the improvement of Broadway

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and Gilbert Roads limits the parcel size and ability to comply with setback requirements, 3) on-site parking requirements cannot be met if additional setbacks are required, and 4) the delivery of fuel requires an unobstructed path through the site.

- 1.3** Improvements to the site include: 1) the north building elevation will be modified to remove service bays and replaced with a façade more appropriate for frontage on Broadway Road, 2) the east building elevation will be updated consistent with the north elevation, 3) on-site parking meets the minimum required, 4) a 9' 8" wide foundation base will be provided adjacent to the north building elevation that will include a public entrance and three 48" above ground planters, and 5) solid waste bins will be screened from public view by an enclosure.
- 1.4** Past increased to the ROW for Broadway and Gilbert Roads does significantly affect the size of the parcel and the degree to which the plan can comply with current Code development standards
- 1.5** Primary staff concerns relate to the limited amount of landscaping proposed, the continued use of non-conforming detached signs within the public right-of-way, and the proximity of the Gilbert Road entrance to the corner.
- 1.6** The adopted conditions include improved landscaping where space allows and the removal of non-conforming signs located within the ROW.
- 1.7** The approved site plan, which includes the recommended conditions of approval, would allow the redevelopment of a non-conforming site with a permitted use that improves conformance with the intent of current Code development standards.
- 1.8** The adopted plan will further require the review and approval of an Administrative Design Review for building architecture and landscape design.

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- Case No.:** BA07-033
- Location:** 1155 South Higley Road
- Subject:** Requesting: 1) a Substantial Conformance Improvement Permit (SCIP); and 2) a Special Use Permit (SUP); both to allow the development of a car wash addition to an existing automobile service station and convenience store 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 Worcester, seconded by Boardmember Thomas to approve this case with the following conditions:
1. *Compliance with the site and landscape plans submitted, except as modified by the conditions below.*
 2. *Owner shall provide a seamless continuation of the current architectural elements that will have integral color, textures and patterns consistent with the surrounding properties.*
 3. *Owner shall provide an 8'x15' landscape median in the northwest parking field reducing the maximum amount of continuous parking spaces to eight.*
 4. *Carwash addition shall have an administrative Design Review approval.*
 5. *Compliance with all requirements of the Building Safety Division in the issuance of building permits.*
- Vote:** Passed 4-0
- Finding of Fact:**
- 1.1 The proposed Substantial Conformance Improvement Permit (SCIP) and Special Use Permit (SUP) would provide the applicant with the ability to add an automated carwash facility.
 - 1.2 The proposed carwash will be integrated into the original construction along the eastern elevation of the property with the entrance of the wash bay entering from the south and exiting to the north.
 - 1.3 Applicant has provided a sound study that indicates the results of the noise prediction show that during peak hours will be 57-60 dBA at the residential property line given that the RYKO unit will be equipped with the optional noise reduction unit.
 - 1.4 Strict compliance with current code requirements would deprive the applicant from the ability to meet the minimum parking requirements for the existing site.
 - 1.5 The current western parking field will need to be brought into conformance with current Code, which require one 8'x15' landscape median for every

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eight continuous parking stalls.

- 1.6** Exterior elevations of the current building and carwash addition will need to have an administrative Design Review approval.

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Case No.: BA07-034

Location: 1551 East Lynwood Street

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

Decision: Continued to the August 14,2007 hearing.

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

Motion: It was moved by Boardmember Worcester, seconded by Boardmember Thomas to continue this case to the August 14, 2007 hearing.

Vote: Passed 4-0

Finding of Fact: N/A

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Case No.: BA07-035

Location: 6915 East University Drive

Subject: Requesting a Special Use Permit (SUP) to allow a manufactured home or recreational vehicle to be used as quarters for a night watchman in the C-2 zoning district.

Decision: Continued to the August 14,2007 hearing.

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

Motion: It was moved by Boardmember Worcester, seconded by Boardmember Thomas to continue this case to the August 14, 2007 hearing.

Vote: Passed 4-0

Finding of Fact: N/A

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Case No.: BA07-036

Location: 540 South 80th Street West

Subject: Requesting a Special Use Permit (SUP) to allow co-location of a new commercial wireless communications facility on an existing Commercial Communication Tower in the R1-6-DMP-AS 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 Worcester, seconded by Boardmember Thomas to approve this case with the following conditions:

1. *Compliance with the site plan submitted.*
2. *Compliance with all requirements of the Building Safety Division in the issuance of building permits.*

Vote: Passed 4-0

Finding of Facts:

- 1.1 There is a current Special Use Permit approved by Zoning Administrator case ZA04-046 that authorizes a 74.5-foot Stealth monopalm and associated ground equipment to be used for wireless communications.
- 1.2 The applicant is proposing to co-locate a three sector, three antennas, and three-dish array. The proposed arrays would be nearly flush mounted on the outside of the pole and concealed within a faux growth bulb, or pineapple. Such concealment is consistent with the intent of the original approval.
- 1.3 To address this concern, the applicant is proposing the additional arrays to be mounted on the outside of the pole and concealed within a faux growth bulb, or pineapple.
- 1.4 Staff finds such concealment consistent with the intent of the original approval.

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Case No.: BA07-037

Location: 726 East University Drive

Subject: Requesting a Substantial Conformance Improvement Permit (SCIP) to allow redevelopment of a preschool/daycare use in the R-2 and R-4 zoning districts.

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 Worcester, seconded by Boardmember Thomas to approve this case with the following conditions:

1. *Compliance with the site and landscape plans submitted, except as modified by the conditions below.*
2. *Provision of a five-foot wide by forty-five foot long (5' W x 45' L) landscape island between parking rows in the northeastern parking field.*
3. *Vehicles drives extending from University Drive to the parking areas shall be constructed of brick pavers, stamped concrete, or other material approved by an Administrative Design Review.*
4. *Compliance with all requirements of an Administrative Design Review.*
5. *Compliance with all requirements of the Building Safety Division in the issuance of building permits.*

Vote: Passed 4-0

Finding of Fact:

- 1.1 The requested Substantial Conformance Improvement Permit (SCIP) will allow the redevelopment of four existing vacant buildings, totaling approximately 5,340 square feet, for use as a daycare/preschool. While no official certificate of occupancy can be found, the buildings have been previously utilized as a daycare/preschool. The site consists of six lots totaling approximately 33,950 s.f. (0.78 acres) and zoned R-2 and R-4.
- 1.2 Requested deviations to current Code requirements include reduced setbacks from University Drive and adjacent property lines, reduced landscaping, and reduction in foundation base. With the exception of the rear lot area, the location of existing buildings on the lot limits the degree of conformance possible. The applicant has noted that compliance with current Code development standards would require the demolition of existing buildings.
- 1.3 Improvements to the site that represent substantial conformance with current Code requirements include replacement of the existing parking area adjacent to University Drive with landscaping, improved vehicular circulation through the site, and on-site parking consistent with Code requirements. Staff is recommending that the concrete wheel stops utilized within the northeast parking field be replaced with a landscape island; and brick pavers,

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stamped concrete, or other material be utilized for drive aisle extending from University Drive to the parking areas.

- 1.4** Following Board of Adjustment approval, the applicant is required to receive the review and approval of an Administrative Design Review.
- 1.5** With the improvements identified, including adopted conditions of approval, the applicant has proposed a site plan that substantially conforms to current Code.

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Case No.: BA07-038

Location: 1927 North Ashland Circle

Subject: Requesting a variance to allow a single residence to encroach into the required side yard in the R1-6-BIZ zoning district.

Decision: Continued to the August 14,2007 hearing.

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

Motion: It was moved by Boardmember Worcester, seconded by Boardmember Thomas to continue this case to the August 14, 2007 hearing.

Vote: Passed 4-0

Finding of Fact: N/A

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Case No.: BA07-039

Location: 6445 East Heather Drive

Subject: Requesting a variance to allow a fence to exceed the maximum height permitted in the required front yard in the R1-9 zoning district.

Decision: Denied

Summary: Mr. Woods, applicant, presented variance request to the Board. He explained that he did not believe the fence encroached into the front yard. He further explained that the fence provided much needed outdoor play area for his children and was designed and constructed to be aesthetically pleasing.

Mr. Gibbons, neighbor, spoke in favor of the request

Mr. McVay explained the interpretation of front yard as defined in the City of Mesa Zoning Ordinance.

The Board agreed and determined the fence was to be lowered to the required height when entering the front yard setback.

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

Vote: Passed 4-0

Finding of Fact:

- 1.1 The proposed variance would allow the owner of the residence to maintain a fence that exceeds the 3.5' height limit for a fence in the front yard. The owner is requesting that the fence height be extended to a height of six feet.
- 1.2 The applicant did not provide sufficient justification for the requested variance to height.
- 1.3 The stated reasons for the fence would constitute a self-imposed hardship. The applicant has the ability to achieve the goal of a larger grass area while utilizing a fence that complies with Code requirements.
- 1.4 The applicant's property does not possess unique conditions that are pre-existing.

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Respectfully submitted,

Jeffrey McVay, AICP
Senior Planner
Secretary, Board of Adjustment

Minutes written by Constance Bachman, Planning Assistant

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