

# Board of Adjustment Minutes



City Council Chambers, Lower Level  
February 8, 2005

**Board members Present:**

Jared Langkilde, Chair  
Dianne von Borstel  
Carrie Allen  
David Shuff  
Mike Clement

**Board members Absent:**

Roxanne Pierson (excused)  
Greg Lambright (excused)

**Staff Present:**

John Gendron  
Krissa Hargis  
Gordon Sheffield  
Amy Veith

**Others Present:**

Kent Brady      Ralph Pew  
Glenda Chase   Frank Plambeck  
Conor Crosby    Vicki Plambeck  
Marilyn Crosby   Rodney Ray  
Scott Crosby    Vern Watson  
Chumita Hurd    Dan Williams  
Others

The study session began at 4:30 p.m. The Public Hearing meeting began at 5:30 p.m. Before adjournment at 6:39 p.m., the following items were considered and recorded on Board of Adjustment Tape # 322 and 323.

**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 January 11, 2005 Meeting  
It was moved by Boardmember von Borstel and seconded by Boardmember Shuff, that the minutes of the January 11, 2005 Board of Adjustment meeting be approved. **Vote:** Passed 5-0
- B. Consent Agenda  
Boardmember Clement, seconded by Boardmember Shuff, moved approval of the Consent Agenda, with the conditions noted in the staff reports. **Vote:** Passed 5-0

**Board of Adjustment Meeting  
February 8, 2005**

**Case No.:** BA04-038

**Location:** 1710 South Greenfield Road

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

**Decision:** Approved with conditions.

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

**Motion:** It was moved by Boardmember Clement and seconded by Boardmember Shuff that this case be approved, subject to the following conditions:

- 1) *Continuance of that portion of the "Greenway Gateway" sign plan regarding detached signs, and all attached signs except those associated with the Wal-mart store, to the March 8, 2005 Board of Adjustment meeting.*
- 2) *Compliance with that portion of the "Greenfield Gateway" sign plan limited to attached signs for the Wal-mart store, as submitted, except as modified by the conditions listed below.*
- 3) *With regard to the Wal-mart store, the total number of attached signs shall not exceed an aggregate sign area of 630 sqft or less, with the following attached signs specifically being deleted:*
  - a) *Both "Always" signs above the two primary entries (south elevation);*
  - b) *The "Tire and Lube Express" (with arrow) directional sign on the front (south) elevation*
  - c) *"Wal-mart" from the "Wal-mart Tire and Lube Express" sign on the east elevation;*
  - d) *Both of the two "Wal-mart Tire and Lube Express" signs from the kiosk adjacent to Greenfield Rd.*
  - e) *The "supercenter" verbiage from the rear "Wal-mart" sign*
- 4) *With regard to all stores and shops, any "modifier" signs (those signs used in addition to the primary identification of the store name specifically to convey products or services offered within the store) shall be less than 12 square feet in sign area (each), and shall occupy a position on the building elevation of no more than eight feet (8') high from adjacent grade*
- 5) *The east elevation of the Wal-mart store shall not be permitted to display any modifier signage, except two each "Tires" and "Lube Express"(maximum 12" high letters) modifier signs above the bay doors on the east elevation.*

**Vote:** Passed 5-0

**Finding of Fact:**

- 1.1 This site was approved by the City Council, by means of a Council Use Permit, as an appropriate location for large retail buildings. The Council also required the applicant to seek a Comprehensive Sign Plan to address signage needs for the center. This application addresses that condition of zoning approval.
- 1.2 The case site is relatively large (43.58 +/- acres) for a retail or commercial development. It has limited arterial street frontage, and it backs up to a freeway off-ramp. Primary access to most of the site is by way of a secondary street (Juanita Ave).
- 1.3 The proposed sign plan deviates from the maximums permitted for commercial sites in the amount of total sign area permitted for larger "major" stores.
- 1.4 The proposed development deviates from standard commercial development because the size of the anchor or "major" tenant will be in excess of 200,000 square feet under roof.

**Board of Adjustment Meeting  
February 8, 2005**

- 1.5 The development also backs up to a freeway off-ramp. Reasonable visibility of store names attached to the backs of the individual store buildings will not demonstrably add to sign clutter because a side of the building not typically seen from the street will be visible. Limited signage used to identify the commercial store within the center will help in way finding to the site from the freeway.
- 1.6 Unique conditions are present in the form of the layout of the site plan, when compared to typical commercial development.

**Board of Adjustment Meeting  
February 8, 2005**

**Case No.:** BA04-056

**Location:** 2603 North Horne

**Subject:** Requesting a Substantial Conformance Improvement Permit in conjunction with the expansion of an existing church in the R1-43 district.

**Decision:** Approved with conditions.

**Summary:** This case was continued from the December 14, 2004 hearing. Mr. Ralph Pew, representing the applicant, explained that the church has been a part of the Mesa community for approximately fifty years. Mr. Pew further explained the history regarding the purchasing of the property. He stated that after the church purchased the property, they began construction on a chapel building and dormitory without building permits. Mr. Pew stated that the church is aware of their mistakes and are now trying to correct them. He also stated that they would be in agreement with the condition to have the dormitory building removed within ninety (90) days and the site improvements completed within one (1) year. The only request remaining would permit the "chapel" building to remain in its current location, an encroach of approximately thirteen feet (13') into a 20' wide setback. Mr. Pew stated that the church would not occupy the site until a Certificate of Occupancy is obtained and the site improvements have been completed.

Boardmember Clement inquired about what would be removed in regards to the dormitory building. Mr. Pew stated that they would dismantle the framing of the dormitory building and evaluate the concrete foundation. Boardmember Clement asked for clarification regarding if the church had ceased occupancy. Mr. Pew stated that the church had ceased occupancy and would not occupy the site until a Certificate of Occupancy has been issued. Boardmember Clement stated that the previous meeting some of the neighbors commented regarding the revival tents and asked for more information regarding the revivals. Mr. Pew explained that the church previously had a "camp" around the Christmas season. He further stated that the church is aware that they would not be permitted to park any type of recreational vehicles on the property. He explained that the church might have a camp in the future after a new building that meets all current Code requirements is constructed. Boardmember Clement stated that he believed the "chapel" building was previously a shop building with a canopy and a few metal posts. Mr. Pew explained that the church converted the previous building into the "chapel" building. There is a second-story portion, approximately one-third of the "chapel" building, which consists of four classrooms. The ground floor of that portion also contains four classrooms. Boardmember Clement stated that he believed that any new buildings would have a difficulty meeting Code requirements due to the contrasts of the property.

Boardmember Shuff asked Mr. Pew if his client was in agreement with all of the conditions recommended by staff. Mr. Pew stated that he was in agreement. He further explained that the church has a small congregation with that would need to park approximately eight to ten vehicles and the impact on the neighbors would be minimal.

Mr. Vern Watson, a representative of the Lehi Community Improvement Association, spoken in opposition of the request. He explained that he is representing approximately 300 property owners within the Lehi community that are against this request. Mr. Watson stated that the church began construction without any building permits. The church met with the Lehi Community Improvement Association regarding their project and the committee voted unanimously against the request because it did not meet City Code requirements. Mr. Watson further explained that no septic or sewer systems are available that could accommodate this type

**Board of Adjustment Meeting  
February 8, 2005**

of use. He stated that he has been trying to work with the church and ADOT regarding the property. Mr. Watson reported that he contacted the Salt River Indian community and they told him that the church could be able to have services on the reservation. He also stated all ten property owners surrounding this property are in opposition to the request. Boardmember Clement asked Mr. Watson if he was aware of the letter from Mr. Pew dated February 7, 2005. Mr. Watson stated that he obtained the letter that afternoon, just before he left to come to this Board meeting.

Ms. Glenda Chase, 2661 N. Horne, spoke in opposition to the request. She stated that the church's desire does not fit the desired goals of Lehi area residents and believed it should be located in a commercial location. She further explained that the recreational vehicle hook-ups were not appropriate for the area. Ms. Chase stated that the building is only 7' away from the property line and that she does not believe that the church should be given any special privilege. She explained that the structure is concrete and it would not be possible to move the building. Ms. Chase further stated that she was not against the church, but did not believe that the church belonged in a residential area and asked that the Board reject the application.

Mr. Rodney Ray, 2601 N. Horne, spoke in opposition to the request. He asked if the church was held to the C-2 District Code requirements. Mr. Sheffield stated that the church was. Mr. Ray asked if the church was held to the fire code. Mr. Sheffield stated that the Board does not have the authority to waive any Building Code requirements. Mr. Ray asked if the church was required to meet all Code requirements, because there were concerns regarding sprinklers, septic, occupancy rating, parking, landscaping, etc. He asked if a two-story building was required to meet a 30' building setback. Mr. Sheffield stated that it was a 20' building setback. Mr. Ray then confirmed that the church would be required to install a block fence along the perimeter of the entire site. He indicated he felt it would be impossible for the church to comply with the current Code requirements without any variances. He postulated that given the history of the church and the fact that the recreational vehicle hook-ups are still on the property, he recommended that the Board not grant the request because it is not possible for them to comply with current Code requirements.

Mr. Sorenson, representing various neighbors, spoke in opposition of the request and stated that he would like to reiterate what has previously been said.

Mr. Conor Crosby, 2560 N. Horne, spoke in opposition to the request. He stated that he believed that if the Board granted the SCIP application, the church would be held to lower standard. He explained that he is a contractor and in his experience, if a building is constructed that that does not meet Code requirements, it must be removed and re-built to meet Code requirements. Mr. Crosby stated that in his opinion, the church's attitude has been to construct what they desire and then ask for forgiveness. He requested that the church be required to meet the current Code requirement and be held to the current standards.

Mr. Ralph Pew stated that the request does not involve any Building Code standards. The building will be inspected and retrofitted to meet all current Building Code requirements. If the neighbors were concerned with the two-story nature of the existing building, then the church would be agreeable to removing the second-story to satisfy some of their concerns. Mr. Pew explained the church used the property somewhat infrequently for "camp" meetings and believes there was a misunderstanding regarding the annual "camp". He stated that he did not believe any recreational vehicle hook-ups existed and if any did, they would be removed. He further explained that the annual "camp" would be on-site and there would not be any camping-out. He stated that it would be similar to regular meetings in the building. The intent of the church is to occupy the single building and any new construction would meet current Code requirements.

**Board of Adjustment Meeting  
February 8, 2005**

Boardmember Allen asked how long the property has been occupied. Mr. Pew stated that it has been occupied for approximately two years. Boardmember Allen asked if any complaints had been received. Mr. Dan Williams, of the Bible Holiness Church, stated that the church had not received any complaints to his knowledge. He also stated that recreational vehicle hook-ups did exist on the property, but they would be removed.

Boardmember Clement stated that he would be agreeable to the removal of the second-story. Mr. Williams stated that the removal would be a hardship to the church financially, but they would be willing to remove it. Boardmember Shuff inquired about if the Board had the authority to require the second-story to be removed.

Mr. Sheffield explained that purpose of the SCIP is to be in substantial conformance with the current Code requirement, so the Board did have the authority to add a condition. He read the conditions recommended by staff with an addition of #6, which stated that the dormitory building must be removed within ninety (90) days and all site improvements must be completed within one (1) year of approval. He noted the applicant had volunteered an additional condition, #7, which stated that the second-story portion of the "chapel" building be removed. Mr. Sheffield further explained that the church is a permitted use on the property and the Board should consider the SCIP request as if no construction had taken place on the site. He stated that staff did contact the City's Engineering Division and they would allow the church to contact the Maricopa County about expanding their septic tank system to accommodate the church because the closest sewer hook-up is approximately 3,000' away from the property.

Boardmember Shuff recommended that the church try to work with the community to resolve some of the differences because he believed that there were trust issues between the neighbors and the church. He further stated that he believed there were special circumstances due to the unique shape of the property.

Boardmember Clement stated that the church would be required to make many improvements to the property prior to its occupancy. The church is a permitted use on the property. He further stated that given the location and configuration of the lot, it would not be appropriate to deny the SCIP request. Chairman Langkilde asked if any of the neighbors would like another opportunity to speak.

Mr. Ray stated that he was not against the church itself, but he believed that setbacks were created as a buffering tool from residential and for public safety. He further explained that he did not believe the church could comply with C-2 standards and that they would be coming back in the near future to another SCIP request. Mr. Ray did not believe that the church fit in the residential area. He also stated that he did not believe that the church should have requested the SCIP prior to construction and not after the fact. He further stated that the second story of the "chapel" building and concrete from the dormitory building should be removed.

Mr. Sheffield stated that the Board must consider each request as a "plan on paper" and determine if there are sufficient facts present to pass the case, or determine that the facts do not support the case, and deny it.

Chairman Langkilde asked if there were any ramification due to the fact that not a full Board was present. Mr. Sheffield stated that it is the Board's decision as to what they desire to do. Chairman Langkilde inquired as to how soon the church would come back for another SCIP request. Mr. Sheffield stated that staff would encourage the applicant to try to conform as much as possible to the current Code requirements and to try to avoid having to apply for a SCIP, based on a different site plan.

**Board of Adjustment Meeting  
February 8, 2005**

Boardmember Clement stated that a structure did exist prior to the "chapel" building and if the request were granted, the church would still have to comply with the majority of the Code requirements. The church will not occupy the site until a Certificate of Occupancy has been obtained.

Chairman Langkilde asked if the Lehi community was part of Mesa originally and if there had previously been any special considerations or interpretations granted to the unique area. Mr. Sheffield stated that the street widths in the area are less than normal, but there were no special considerations. Several aspects of development in Lehi community were grandfathered when it was annexed into the City, but new development is required to meet all current building standards. The lots in this area do have unique shapes. Chairman Langkilde stated that the historical aspects of the community should be considered with the request. Mr. Sheffield indicated that the Board had used historical development patterns to justify some Lehi related cases in the past.

Boardmember Allen stated that she believed the building could comply with current Building Code requirements. Mr. Sheffield stated that it would be required to meet all current Building, Fire, and Engineering Code requirements and the construction documents will show the compliance. He further stated that the only items that the Board can consider relate to the Zoning Code requirements. Boardmember Allen stated that without the granting of the SCIP request, it would not be possible for the building to comply with current Zoning Code requirements.

Mr. Watson stated that when he spoke with the church approximately 60 to 75 days ago, they told him that they could not afford to do any improvements. He further explained that a fence around the property and an additional septic tank system would be quite expensive.

Boardmember Allen stated that the SCIP request does not consider the septic tank system or fence. She further stated that she does not believe the second story affects the surrounding properties and looking at the pictures, it appears that there is an adequate distance between the building and the property to the north.

**Motion:** It was moved by Boardmember Clement, and seconded by Boardmember Shuff that this case be approved with following conditions:

1. All new development shall comply with all requirements of the Mesa Zoning Ordinance, with the exception that the designated "chapel" building may encroach into the required building and landscaping setbacks along the north property line as shown on the submitted site plan.
2. No expansion of the chapel to the east or the west, beyond what is shown on the site plan, shall be allowed without approval of another Substantial Conformance Improvement Permit (SCIP) or a variance;
3. The existing construction of the dormitory building shall be removed, and any future dormitory building shall comply with all requirements of the Mesa Zoning Ordinance.
4. There shall be no provisions made for utility connections related to the temporary use of recreational vehicles as a residential use, nor provisions made to permit parking of recreational vehicles on site.
5. Compliance with all requirements of the Building Safety Division.
6. The dormitory building must be removed within ninety (90) days of the approval and all site improvements must be completed within one (1) year of the approval.
7. The second story of the "chapel" building must be removed.

**Vote:** Passed 4-1 (Langkilde nay)

**Board of Adjustment Meeting  
February 8, 2005**

**Finding of Fact:**

- 1.1 The case site is a non-conforming parcel that qualifies for a Substantial Conformance Improvement Permit (SCIP). The Boards found that only two of the requested site development modifications, as shown on the proposed site plan, should be approved. Both of these modifications pertain to the building that the church converted into a chapel. The chapel will be allowed to remain in its present location on the property, 7' from the north property line. However, the chapel will be limited to a one-story building, and all other improvements to the site are to comply with City Code.
- 1.2 The case site is a long, narrow lot that fronts onto a mid-section collector street (Lehi Road). The case site is located in the Lehi area and is adjacent to and surrounded by other residential lots of the same size and configuration. Prior to the church purchasing the property, the property had always been used as a residence. All of the surrounding lots are being used for residential purposes. There are no other commercial or institutional uses in the immediate area.
- 1.3 As approved, the conditions will require the church to comply with all current development standards except the chapel building, which may remain at a 7.5' setback from the north property line. The time limit adopted by the Board is to give a reference for when the church should be found to be in compliance with current standards.

**Board of Adjustment Meeting  
February 8, 2005**

**Case No.:** BA05-002

**Location:** 220 South Chestnut Street

**Subject:** Requesting a Substantial Conformance Improvement Permit in conjunction with the expansion of an existing church in the R1-6 district.

**Decision:** Withdrawn.

**Summary:** The applicant requested this case be withdrawn. This case was on the consent agenda, and was not heard on an individual basis.

**Motion:** It was moved by Boardmember Clement, and seconded by Boardmember Shuff that this case be withdrawn.

**Vote:** Passed 5-0

**Finding of Fact:** N/A

**Board of Adjustment Meeting  
February 8, 2005**

**Case No.:** BA05-003

**Location:** 5247 East Greenway Circle

**Subject:** Requesting a variance to allow an addition to an existing residence to encroach into the required side yard setback in the R1-7-DMP-PAD district.

**Decision:** Approved as submitted.

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

**Motion:** It was moved by Boardmember Clement, and seconded by Boardmember Shuff that this case be approved as submitted.

**Vote:** Passed 5-0

**Finding of Fact:**

- 1.1 This lot is angled along the west side, providing a larger side yard toward the rear of the home.
- 1.2 This proposed addition will eliminate the required 10' side yard. However, the encroachment into the required side yard on the opposite side yard is limited to the corner of the house, and the yard widens to over 10' as it progresses back from the front of the lot.

**Board of Adjustment Meeting  
February 8, 2005**

**Case No.:** BA05-004

**Location:** 1930 North Arboleda

**Subject:** Requesting a variance to allow a detached (monument) sign to exceed the maximum allowed area in the O-S district.

**Decision:** Withdrawn.

**Summary:** The applicant requested this case be withdrawn. This case was on the consent agenda, and was not heard on an individual basis.

**Motion:** It was moved by Boardmember Clement, and seconded by Boardmember Shuff that this case be withdrawn.

**Vote:** Passed 5-0

**Finding of Fact:** N/A

**Board of Adjustment Meeting  
February 8, 2005**

**Case No.:** BA05-005

**Location:** 602 West University Drive

**Subject:** Requesting: 1) a Special Use Permit for a wedding reception center; and 2) a Substantial Conformance Improvement Permit in conjunction with the expansion of an existing facility in the O-S district.

**Decision:** Approved with conditions.

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

**Motion:** It was moved by Boardmember Clement, and seconded by Boardmember Shuff that this case be approved, with the following conditions:

1. Compliance with the site plan as submitted, except as modified by the conditions listed below;
2. Submittal of an Administrative Design Review Application and compliance with all requirements of the Planning Director that may result from such application;
3. Compliance with all requirements of the Building Safety Division with regard to the issuance of a building permit; and
4. Installation of landscaping along the street side landscape areas at a minimum ratio of one (1) tree and three (3) shrubs for every twenty-five feet (25') of street front for both University Drive and Date. New trees and shrubs are to supplement the existing landscaping to achieve the specified ratio.

**Vote:** Passed 5-0

**Finding of Fact:**

- 1.1 The Wright House has been a successful example of converting a residential structure into an alternative use. The proposed expansion of this facility to the proposed annex site is consistent with the use established to the west.
- 1.2 Many of the buildings proposed for use by the annex existed as part of the original residence, and are to be used for the reception center.
- 1.3 The newer reception building, to the north and east of the original residence, aligns with the setback established by the original garage.
- 1.4 The proposed enclosing of the ramada with help mitigate sound coming from that area, which in turn will help make the reception use more compatible with adjacent residential uses.
- 1.5 Removal of any of the buildings or parking spaces would diminish the ability of the site to be used for a reception center.

**Board of Adjustment Meeting  
February 8, 2005**

**Case No.:** BA05-006

**Location:** 1950 North Recker Road

**Subject:** Requesting: 1) a Special Use Permit for a Comprehensive Sign Plan; and 2) a Substantial Conformance Improvement Permit in conjunction with the development of a restaurant in the C-2-DMP district.

**Decision:** Approved with conditions.

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

**Motion:** It was moved by Boardmember Clement, and seconded by Boardmember Shuff that this case be approved, with the following conditions:

1. Compliance with the plan entitled "Preliminary Site Plan," dated revised January 12, 2005, except as modified by the conditions listed below;
2. Compliance with all requirements of the Design Review Board; and
3. Compliance with all requirements of the Building Safety Division.

**Vote:** Passed 5-0

**Finding of Fact:**

- 1.1 The project qualifies for a SCIP. The case site is a non-conforming pad site that is part of a larger retail center, which was developed in 1987. Staff believes that the proposed plan represents the greatest degree of compliance with current zoning regulations that can be achieved, considering that the pad site was both created and partially developed prior to the adoption of Chapter 15, the Site Development Design Standards.
- 1.2 The case site occupies the majority of an existing pad site, located at the corner of two arterial streets, within an existing retail center. Significant improvements were installed along both street fronts at the time the center was constructed in 1987, including street widening and perimeter landscaping. Currently there is no building on the pad; however, it is paved and developed with several rows of parking stalls and some landscaping.
- 1.3 In order for the project to meet current standards for arterial street landscape setback areas, the applicant would have to realign the existing parking spaces and circulation aisles on the case site. This realignment would also affect the circulation pattern shared with the surrounding center. The proposed plan includes more frequent landscape islands within the rows parking stalls facing McKellips and Recker roads. This treatment can, in effect, extend the intended street side landscape areas into the circulation and parking areas.

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Respectfully submitted,

Gordon Sheffield, AICP  
Senior Planner

Minutes written by Krissa Hargis, Planning Assistant

**Board of Adjustment Meeting  
February 8, 2005**

G/Board of Adjustment/Minutes/2005/02 February