

Board of Adjustment Minutes



City Utilities Building, Community Room
640 North Mesa Drive
August 8, 2006

Board members Present:

Dina Higgins, Chair
Mike Clement, Vice Chair
Randy Carter
Craig Boswell
Garrett McCray
Dianne von Borstel
Roxanne Pierson

Board members Absent:

(None)

Staff Present:

Gordon Sheffield
Jeff McVay
Lena Butterfield

Others Present:

Thomas Eells
Carol Eells
Rulon Anderson
Jack Warden
Kim Warden
Steve Bostic

The study session began at 4:30 p.m. The Public Hearing meeting began at 5:30 p.m. Before adjournment at 6:30 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 July 11, 2006 Meeting A motion was made to approve the minutes by Boardmember von Borstel and seconded by Boardmember Pierson. **Vote: Passed 7-0**
- B. Consent Agenda A motion to approve the consent agenda as read was made by Boardmember Carter and seconded by Boardmember McCray. **Vote: Passed 7-0**

**Board of Adjustment Meeting
August 8, 2006**

Case No.: BA06-32

Location: 2154 East Fountain Street

Subject: Requesting a variance to allow a carport to encroach into the required side and rear yard.

Decision: Denied

Summary: Mr. Eells, applicant, explained that the carport had been constructed about 12 years ago and was built in the current location because of the location of his RV gate and without a building permit on the advice of the carport dealer. He presented signed statements in support of the carport from his neighbors.

Boardmember. Bostic, 2138 E Fountain St, explained that from where his house sits he is the most affected by the view of the carport and he does not have a problem with it. Additionally, he explained that the whole neighborhood is in support of the carport.

Mr. McVay explained that a variance cannot be granted for the vehicular non-access easement; the only way to remove the vehicular non-access easement is to apply with the City's Real Estate Division. He further stated the variance request does not have the appropriate justification because the hardship is related to the RV itself and not related to the land. As such, the applicant's desire to park the RV at that location constitutes a self-imposed hardship. Additionally, there are options available that would not require a variance, including the removal of the structure.

Boardmember. Boswell explained that because of the size of the lot he does not feel that there are other options for the applicant to place the carport. Adding that if the carport were to be located anywhere else on the property it would be in a more conspicuous spot and become intrusive. Additionally, he does not agree the self-imposed hardship is related to the RV.

Boardmember. Carter agreed stating that the alley did not have enough room to maneuver a large RV. Additionally, he questioned the relocation of the carport after it has been in its current location for 12 years and the neighbors have no objections.

In response to a question Mr. McVay explained that currently the carport encroached 9 feet into the side yard and 12'4" into the rear yard.

Boardmember. Higgins reviewed the four conditions that need to be met in order to justify a variance and went on to explain that the Board must look at the request as a plan on paper and cannot take into account that the structure is currently built.

Boardmembers. McCray and Clement both explained that while they are sympathetic to the applicant they do not feel that justification for the variance has been met.

**Board of Adjustment Meeting
August 8, 2006**

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

Vote: Passed 7-0

Finding of Fact:

- 1.1 The proposed RV carport is, by Zoning Code definition, attached to the primary dwelling because it is less than 6' away from the dwelling. Code requires attached buildings to be located entirely within the building setback lines. As proposed, the RV carport would encroach into the side and rear yards by 9' and 12' 4", respectively. Approval of the variance would grant a special privilege unavailable to other similar properties.
- 1.2 The approved subdivision plat, Tierra Este #4, indicates a vehicular non-access easement along the rear of the subject property, which prohibits direct vehicular access to 22nd Street from the subject parcel. The location of the existing access gate off 22nd Street is not consistent with the approved subdivision and should be relocated to provide access to the rear yard from the adjacent alley to the north. A potential alley abandonment west of the subject parcel would not affect the applicant's ability to access the rear yard from the adjacent alley.
- 1.3 The subject parcel is approximately 17,400 square feet in area, significantly larger than the minimum 9,000 square feet lot area required. The applicant has options available that would allow construction of a similar size RV carport that would not require a variance. At the same time, access to the rear yard should be directed to the adjacent alley, consistent with the approved subdivision.

* * * * *

**Board of Adjustment Meeting
August 8, 2006**

Case No.: BA06-035

Location: 8701 East Brown Road

Subject: Requesting a Special Use Permit to allow a Commercial Communication Tower (CCT) in the R1-43 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 Carter, seconded by Boardmember McCray to approve this case with the following conditions:

1. *Compliance with the site plan submitted, except as modified by the conditions listed below.*
2. *The final site plan and elevations shall be submitted for Planning Division staff review and approval prior to submittal for building permits.*
3. *Compliance with all Federal Aviation Administration regulations.*
4. *Compliance with all Federal Communications Commissions regulations.*
5. *Compliance with all requirements of the Building Safety Division with regard to the issuance of building permits.*

Vote: Passed 7-0

Finding of Fact:

- 1.1 The CCT is an allowed use in the R1-43 Zoning District subject to granting of a Special Use Permit, complies with the Commercial Communication Towers Guidelines, the General Plan, and other policies adopted by City Council, and would be compatible with and not detrimental to surrounding properties.
- 1.2 The proposed 55-foot tall Commercial Communication Tower would be located approximately 250 feet from the nearest residential use and adjacent to Loop 202 currently under construction. The proposed CCT was the subject of a neighborhood meeting, at which no opposition to the proposal was present.
- 1.3 The proposed CCT will be designed to conceal the antennas as a monocross. A monocross design is compatible with the neighborhood and is consistent with the Desert Uplands Development Standards section of the Subdivision Regulations.

* * * * *

**Board of Adjustment Meeting
August 8, 2006**

Case No.: BA06-037

Location: 424 East Lehi Road

Subject: Requesting variances to allow: 1) a fence to exceed the maximum height permitted; and 2) a detached accessory building to be located in front of the front line of the dwelling in the R1-43 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 Carter, seconded by Boardmember McCray to approve this case with the following conditions:

1. *Compliance with the site plan submitted, except as modified by the conditions below.*
2. *No fence within the front setback shall exceed a maximum height of five feet (5') and shall be constructed as a view fence.*
3. *The detached accessory building shall not encroach into any required setbacks.*
4. *Compliance with all requirements of the Building Safety Division with regard to the issuance of building permits.*

Vote: Passed 7-0

Finding of Fact:

- 1.1 The applicants are requesting variances to allow a five-foot high fence within the front yard setback and a detached accessory building to be located in front of the front line of the dwelling.
- 1.2 The subject parcel is located in the Lehi sub-area. City of Mesa planning staff, working with the Lehi Community Improvement Association, prepared a Lehi sub-area plan that was adopted by City Council in January 2006.
- 1.3 To preserve a rural/agricultural identity, the Lehi sub-area plan promotes the keeping of livestock, including pasturing livestock in front setbacks. For this reason, the plan also promotes pasture view type fences within front setback with a maximum height of five feet. The additional fence height provides secure pasturing of livestock. Due to the orientation and location of the home, the applicants have partially located the pasture within the front setback. The applicants are proposing a view type fence with a maximum height of five feet to provide secure pasturing for horses.

**Board of Adjustment Meeting
August 8, 2006**

- 1.4** By definition, the front line of the subject parcel is Mesa Drive. The home was constructed on the east side of the parcel and oriented towards Lehi Road. The accessory structure requires a variance because the orientation of the home is not consistent with the Code definition of front line. The home has been constructed with orientation towards Lehi Road and setbacks consistent with a front line adjacent to Lehi Road.
- 1.5** The size of the parcel and the location of the proposed accessory structure in relation to the rights-of-way mitigates the impact that the Ordinance requirement is intended to prevent. Given the orientation of the home, the accessory structure is not in front of what the public would commonly interpret as the front line of the home (the side with the front door).
- 1.6** The size and orientation of the subject parcel is similar to others in the vicinity. Such other parcels could construct a detached accessory building in a similar location without the need for a variance.

* * * * *

**Board of Adjustment Meeting
August 8, 2006**

Case No.: BA06-038

Location: 1744 South Val Vista Drive

Subject: Requesting the modification of a Special Use Permit for a Comprehensive Sign Plan for a group commercial center in the C-2-BIZ-DMP zoning district.

Decision: Approved with conditions

Summary: Boardmember. Clement recused himself from the discussion and vote due to a conflict of interest. Chairperson. Higgins accepted a motion on the case without separate discussion.

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

1. *Compliance with the existing Comprehensive Sign Plan (BA04-012) and the modification submitted, except as modified by the conditions listed below.*
2. *Second floor office tenants shall be allowed one attached sign on a building elevation facing Val Vista Drive with a maximum sign area of thirty (30) square feet.*
3. *The maximum letter size of second floor office tenants attached signs shall be twelve inches (12").*
4. *Compliance with all requirements of the Building Safety Division with regard to the issuance of sign permits.*

Vote: Passed 6-0-1 (Mr. Clements Abstaining)

Finding of Fact:

- 1.1 A Comprehensive Sign Plan (CSP) has been approved for Dana Park Village as Board of Adjustment case BA04-012. That CSP did not provide any attached signage for second floor office tenants. The applicant feels that the lack of identification for these tenants has led to difficulty in leasing the office space.
- 1.2 Dana Park exhibits architectural interest, is unique with first floor retail and second floor office, and the subject building is located approximately 800 feet from Val Vista Drive. The proposed signs are relatively small in letter size and area and have been designed consistent with the existing Comprehensive Sign Plan.
- 1.3 One attached sign facing Val Vista Drive for each second floor office with a maximum letter size of 12 inches and maximum sign area of 30 square feet is consistent with the intent of the existing Comprehensive Sign Plan, would be compatible with the surrounding neighborhood, and have negligible visual impact on surrounding properties.

* * * * *

**Board of Adjustment Meeting
August 8, 2006**

Case No.: BA06-039

Location: 1301 South Crismon Road

Subject: Requesting a Special Use Permit for a Comprehensive Sign Plan for a hospital and medical campus in the C-1-BIZ zoning district.

Decision: Approved with conditions

Summary: Chairperson. Higgins recused herself from the discussion and vote due to a conflict of interest. Boardmember. Clement accepted a motion on the case without separate discussion

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

1. *Compliance with the Comprehensive Sign Plan submitted.*
2. *Compliance with all requirements of the Building Safety Division with regard to the issuance of sign permits*

Vote: Passed 6-0 (Chairperson Higgins Abstaining)

Finding of Fact:

- 1.1 The Zoning Code would allow an aggregate total of 24 feet in height and 240 square feet in sign area for detached signs along Crismon Road, an aggregate total of 125 feet in height and 1,252.5 square feet in sign area for detached signs along Hampton Avenue, and an aggregate total of 39' 6" feet in height and 395 square feet in sign area for detached signs along Southern Avenue. No sign could exceed 12 feet in height or 80 square feet in sign area.
- 1.2 The proposed Comprehensive Sign Plan proposes a total of 10 feet in height and 100 square feet in sign area for one sign along Crismon Road, an aggregate total of 22' 8" in height and 145 square feet in sign area between four signs along Hampton Avenue, and an aggregate total of 15 feet in height and 115 square feet in sign area between two signs along Hampton Avenue. Three signs, the primary entrance monument sign on each street frontage, have a proposed sign area of 100 square feet. All detached signs will have a coordinated design theme. Aggregate sign heights and areas that are significantly less than would be allowed by current Code balances the minor increase in sign area for the three primary entrance monument signs.
- 1.3 Campus wayfinding is accomplished through 18 proposed monument signs, each of which are 3' 10" in height and 15 square feet in area. Wayfinding monument signs are located interior to the campus and utilize the same design theme as the detached monument sign adjacent to rights-of-way.

**Board of Adjustment Meeting
August 8, 2006**

- 1.4 Six attached signs with an aggregate sign area of 132.5 square feet are proposed on the hospital to identify entrances and specific areas of the hospital. Professional Office Building One would have one attached building identification sign of 55 square feet and Professional Office Building Two would have two attached signs with an aggregate sign area of 110 square feet. Given the size of the hospital (306,00 s.f. in first phase) and professional office buildings (100,000 s.f. each), the number and sign area of attached signs proposed is justified.

* * * * *

Respectfully submitted,

Gordon Sheffield, AICP
Zoning Administrator

Minutes written by Lena Butterfield, Planning Assistant

G:Board of Adjustment/Minutes/2006/08 August