



## BOARD OF ADJUSTMENT MINUTES

December 10, 2002

**Board members Present:**

David Shuff, Chair  
Skip Nelson  
Webb Crockett  
Clark Richter  
Greg Hitchens  
Roxanne Pierson

**Board members Absent:**

Jared Langkilde, Vice Chair

**Staff Present:**

John Gendron  
Gordon Sheffield  
David Nicolella  
Krissa Hargis

**Others Present:**

Sean Lake	Brent Gardner
Lori Ochoa	Robert Michel
Craig Olson	Kevin Rodgers
Steve Lambert	Rodger Button
Walter Kersting	Ron Stupi
Mark Griffith	Others
Sandra Griffith	

Before adjournment at 6:50 p.m., the following items were considered and recorded on Board of Adjustment Tape # 286.

**Study Session 4:30 p.m.**

- A. Before beginning the meeting, Planning Division staff member Gordon Sheffield handed out a City Council report regarding a proposed code amendment to provide for Alternate Board of Adjustment Members.
- B. The items scheduled for the Board's Public Hearing were discussed.

**Public Hearing 5:30 p.m.**

- A. Consider Minutes from the November 12, 2002 Meeting:

It was moved by Board member Crockett, and seconded by Board member Hitchens, that the minutes of the November 12, 2002 Board of Adjustment meeting be approved.

Vote: Passed, 6-0

- B. Planning staff member Gordon Sheffield provided an explanation and answered Board members questions related to the proposed Alternative Board Members Code Amendment. The consensus of the Board agreed that Council should proceed with the code amendment.

**Board Of Adjustment Meeting  
December 10, 2002**

- Case No.: BA02-012
- Location: 1945 West University Drive
- Subject: Requesting 1) a variance to allow a building to encroach into the required side and rear yards, and to delete portions of the required perimeter landscape; and 2) a special use permit to allow the expansion of a car wash in the C-2 district.
- Decision: Approved with conditions.
- Summary: Mr. Sean Lake, applicant, addressed the Board with a new proposal regarding the construction of an office building behind the Buggy Bath car wash. The rear office building has been moved off the rear property line, and is now surrounded by 10' of landscaping on three sides. Also, the size of the garage space will be limited to 400 sq.ft. He added that he explored the option of adding landscaping to the front but no area was found. The new request is for a Special Use Permit to expand the non-conforming car wash and a variance to allow a building to encroach into the rear yard.
- Motion: It was moved by Mr. Hitchens, seconded by Mr. Crocket, 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. Review and approval of the site plan, landscape plan, and elevations of project by the Design Review Board; and
  3. The rear building is limited to office uses only, except the 400 sq.ft. which has been designated as an enclosed garage space. The garage area is not to be used as a materials warehouse.
  4. Provision of a minimum of six parking spaces for the office use, two of which may be placed in the garage space of the office building.
- Vote: Passed 6-0
- Finding of Fact:
- 1.1 This case site is unique in size and shape causing restrictions to allow for any site improvements. There is limited space in the front of the site partially because of a previous road widening project. Special circumstances are present because of the existing conditions on the site.
  - 1.2 All of the current non-conforming issues are pre-existing. The variance will allow a vacant portion of the site to be used.
  - 1.3 The applicant has worked with staff for several months to create a plan that would have the least amount of impact on the surrounding area. Landscaping will be added to three of the four boundaries of the new office building.
  - 1.4 No special privilege will be created as a result of approving this case.

**Board Of Adjustment Meeting  
December 10, 2002**

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Case No.: BA02-040

Location: 664 South MacDonald

Subject: Requesting a variance to allow a fence to exceed the maximum permitted height within the front yard in the R-2 district.

Decision: Denied.

Summary: Mr. Kersting addressed the Board concerning his request for the increased fence heights. Because of the crime in the neighborhood he feels safer with the gate and wall the way they are.

Motion: It was moved by Mr. Hitchens, seconded by Mr. Crocket, that this case be approved as submitted.

Vote: Failed 2-4 (Crockett, and Hitchens voting yea) (Richter, Shuff, Pierson and Nelson voting nay).

Finding of Fact:

- 1.1 Special circumstances are not present. The case site is a typical narrow lot in an older subdivision.
- 1.2 Strict compliance with the zoning ordinance would not deprive the property owner of privileges enjoyed by other property owners in the neighborhood. There are other lots within the immediate vicinity that make use of a 3.5' high fence in the front yard.
- 1.3 The applicant did not provide sufficient evidence of special circumstances that directly relate to the property itself. The evidence that was presented did not warrant the granting of a variance for a 6' high wall in the front yard.
- 1.4 Special privilege would be granted to this lot if a fence higher than 3.5 feet would be allowed.

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**Board Of Adjustment Meeting  
December 10, 2002**

Case No.: BA02-044

Location: 2604 North Robin Circle

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

Decision: Approved with the following conditions:

Summary: The applicant, Mr. Griffith, addressed the Board stating that he believes that the noise level in his yard has dropped 30-40% since he had the wall height increased. He requested that the Board allow him to keep the fence as is. He is willing to get any permits needed if they approved his request.

Motion: It was moved by Mr. Hitchens, seconded by Mr. Crockett, that this case be approved with the following conditions:

1. The coarse of block that was added on the Robin Circle side be removed. All other additions can remain.
2. Compliance with all Building Safety Division requirements for fences that exceed a height of 6'; and
3. Both applying a similar finish and painting the wall addition to match the original masonry fence.

Vote: Passed 6-0

Finding of Fact:

- 1.1 The case site is surrounded on three sides by residential streets, to the south (Norwood), to the east (Robin Lane), and to the west by an arterial street (Lindsay Road). Considerable road noise does emanate from Lindsay Road and Norwood.
- 1.2 Because of the considerable road noise coming from both Lindsay and Norwood justification does exist to allow the perimeter fence to exceed 6' exceed the maximum fence height requirements along those two streets.
- 1.3 Painting and finishing the fence to match the existing wall will provide a more aesthetic appearance to the street.

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**Board Of Adjustment Meeting  
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Case No.: BA02-045

Location: 405 East Crescent

Subject: Requesting a variance to allow a new dwelling unit to encroach into the required side yards in the R-4 district.

Decision: Continued for 30 days.

Summary: This case was on the consent agenda and was not discussed individually.

Motion: It was moved by Mr. Crocket seconded by Mr. Hitchens, that this case be continued for 30 days.

Vote: Passed 6-0

Finding of Fact: N/A

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**Board Of Adjustment Meeting  
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Case No.: BA02-046

Location: 1054 South 75th Street

Subject: Requesting a variance to allow a fence to exceed the maximum height permitted in the rear yard in the R1-6 district.

Decision: Approved with the following conditions:

Summary: This case was on the consent agenda and was not discussed individually.

Motion: It was moved by Mr. Crocket seconded by Mr. Hitchens, that this case be approved with the following conditions:  
1. Modify the retaining wall to comply with the Building Safety Division.

Vote: Passed 6-0

Finding of Fact:

- 1.1 The south side of the lot runs parallel with a rainwater escape canal, causing the lot to have a significant downward slope as it runs from east to west.
- 1.2 The rainwater escape canal and the downward slope condition are pre-existing.
- 1.3 It is typical to have a four-foot retaining wall with a 6-foot masonry wall on top of it. In this case, special circumstances exist that expose the retaining part of the wall.
- 1.4 The wall is located adjacent to the rainwater escape canal. This area is restricted from public access limiting the wall from public view.
- 1.5 If a variance were approved, special privileges would not be granted.

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**Board Of Adjustment Meeting  
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Case No.: BA02-047  
Location: 1007 East Lehi Road  
Subject: Requesting a variance to create a lot with less than the minimum required frontage on a public street in the R1-43 district.  
Decision: Denied.

Summary: Mr. Michel spoke to the Board about his request. He stated that his parcel is just over two acres and he would like to subdivide the one lot into two lots. His mother currently lives on the site and he would like to build a second home so he can be close to her to help maintain the property.

Mr. Kevin Rodgers, President of the Lehi Community Improvement Association, stated that the Association is in support for the proposal.

Mr. Brent Gardner, a neighboring property owner, spoke in opposition to the case. He told of the history of this site dating back to 1996. He believes that the Board has no legal right to rehear this case because the same request has been denied twice in the past.

Mr. Rodger Button, a neighboring property owner, spoke in opposition to the case. He stated that he did not want the rural character of the Lehi area upset by continuous dividing of lots. He opposes more homes in the area.

Motion: It was moved by Mr. Nelson, seconded by Mr. Crockett, that this case be denied.

Vote: Passed 6-0

Finding of Fact:

- 1.1 This site is zoned R1-43, has a rectangular shape, and is 2.3 acres in size (160' x 615'). The proposed lot split will create two lots.
- 1.2 The new lot will be 160' wide by 278' deep, with a 30' wide public utility and access easement to provide frontage onto Lehi Road. The minimum require for street frontage in the R1-43 is 130 feet.
- 1.3 The applicant did not have any additional information or conditions that would change the previous denials for his request.
- 1.4 Approval of a variance would constitute a grant of special privilege.

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**Board Of Adjustment Meeting  
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Case No.: BA02-048

Location: 2431 East McKellips Road

Subject: Requesting a Special Use Permit and a Substantial Conformance Improvement Permit (SCIP) to allow the re-establishment of an automobile service station in the C-2 district.

Decision: Approved with conditions: (Board member Crockett abstaining due to a conflict of interest.)

Summary: This case was taken off the consent agenda due to the declaration of conflict of interest declared by Board member Crockett. Planning Division staff member Gordon Sheffield gave a brief overview of the proposal. The applicant would like to establish a service station use along with a convenience store and restaurant on a site with an existing restaurant, retail store and abandoned service station. To accommodate this proposal, the applicant is requesting deviations from four development standards through the use of the recently adopted a "Substantial Conformance Improvement Permit" or SCIP. The deviations from standards include:

1. A reduction to the width of a street side landscape area; from 30' to between 10 and 15'.
2. A reduction to the number of trees planted within the street side landscape area: from a ratio of 6 trees per 100' to a ratio of 4 trees per 100'.
3. Deletion of interior parking lot landscape islands; from 2 required to zero (installation of the landscape islands would bring the required number of parking spaces below the minimum)
4. A reduction of the foundation base (the distance between the building and the parking lot); from 15' to 6'.

Also, because the service station was abandoned as a use for over one year, a new Special Use Permit is needed to re-establish the ability to sell gas from this site.

Motion: It was moved by Mr. Nelson, and seconded by Mr. Hitchens, that this case be approved with the following conditions:

1. Compliance with the plans submitted; and
2. Recording a cross access easement between the case site and the remaining undeveloped parcel to the south.

Vote: Passed 5-0-1  
(Board member Crockett abstaining and declaring a conflict of interest)

Finding of Fact:

1.1 The case site has been used as a self-service gas station in the past, but the sale of gasoline has not occurred at this property for several years. Small retail or restaurant uses have occupied the building in the meantime.

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- 1.2 The gas station use occupies only a portion of the land parcel. The rear portion remains vacant. The applicant represents the operator of the gas station, which is committed to a long-term lease for only that portion of the parcel that the gas station occupies. They have no developmental control over the rear of the parcel.
- 1.3 The applicant has proposed several improvements that will bring the site into a greater degree of conformance with current requirements. These improvements include the closure of a driveway, increasing the amount of landscaping around the perimeter of the lease site, and improvements to the elevations of the building.
- 1.4 If the full width of all perimeter-landscaping areas would be required, the use would not have sufficient parking to accommodate the uses proposed, and vehicular circulation through the site would also be affected.

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**Board Of Adjustment Meeting  
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Case No.: BA02-049

Location: 1212 South Greenfield Road

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

Decision: Approved with conditions:

Summary: This case was on the consent agenda and was not discussed individually.

Motion: It was moved by Mr. Crocket seconded by Mr. Hitchens, that this case be approved, subject to compliance with all requirements of the Design Review Board (DRB).

Vote: Passed 6-0

Finding of Fact:

- 1.1 The proposed development, located on the southwest corner of Southern Avenue and Greenfield Road, is a retail shops development. A comprehensive sign plan was required as a condition of approval by the City Council for case Z02-15
- 1.2 All signs comply with Sign Ordinance requirements.
- 1.3 Four monument signs are proposed, two oriented towards Southern, and two oriented towards Greenfield.
- 1.4 The proposed monument signs do incorporate the colors of the buildings, however, the architectural design is significantly different than what was conceptually approved by the Design Review Board. The monument signs should go back before the Design Review Board, or be re-designed to comply with the Design Review Board approval.

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**Board Of Adjustment Meeting  
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Case No.: BA02-050

Location: 6015 East Brown Road

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

Decision: Approved with the following conditions:

Summary: This case was on the consent agenda and was not discussed individually.

Motion: It was moved by Mr. Crocket seconded by Mr. Hitchens, that this case be approved with the following conditions:

1. Compliance with the "CVS Brown and Recker Development Master Sign Plan", submitted October 28, 2002;
2. Modifying the designs of the detached signs along Brown Road to reduce the aggregate sign height of all three to 30' (aggregate reduction of 1'); and
3. Revising the elevations of the signs to match the design approved by the Design Review Board, Case DR02-45.

Vote: Passed 6-0

Finding of Fact:

- 1.1 This case has been filed in order to comply with a condition of approval for zoning case Z02-06.
- 1.2 As submitted, the plan largely complies with all standard requirements of Section 11-19-6 of the Zoning Ordinance regarding size, number and height of signs in the C-2 zoning district. The exception is the aggregate sign height of signs along Brown Road in which the total is one foot over the maximum. A minor revision to the sign design can correct this deficiency
- 1.3 As submitted, the design of the detached signs largely follows the design approved by the Design Review Board (case DR02-45). The one difference is in the detailing of the embellishment cap on top of the sign cabinet. The detailing approved by the Design Review Board emulates the coping detail of the building, and would help tie the design of the sign to the architecture of the building.

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Respectfully submitted,

Gordon Sheffield, AICP  
Senior Planner

Minutes written by David Nicolella, Planner I