

Board of Adjustment

Minutes

City Council Chambers, Lower Level
June 11th, 2013

Board Members Present:

Danette Harris- Chair
Trent Montague- Vice Chair
Tyler Stradling
Greg Hitchens
Mark Freeman
Wade Swanson

Board Members Absent:

Chad Cluff - excused

Staff Present:

Gordon Sheffield
Angelica Guevara
Jeff McVay
Kaelee Wilson
Jason Sanks
Wahid Alam
Lesley Davis
Julia Kerran

Others Present:

Bruce French
Ashley West

The study session began at 5:04 p.m. The Public Hearing meeting began at 5:46 p.m. Before adjournment at 6:41 p.m., the following items were considered and recorded:

Study Session began at 5:04 p.m.

A. Zoning Administrator's Report:

Mr. Sheffield reported the status of the Sign Code update. Mr. Sheffield stated he will be basing the code on form-based principles.

B. The items scheduled for the Board's Public Hearing were discussed.

Study Session was adjourned at 5:43 p.m.

Public Hearing began at 5:46 p.m.

- A. Consider Minutes from the May 14th, 2013 Meeting a motion was made by Board member Stradling and seconded by Board member Swanson to approve the minutes. Vote: Passed 6-0
- B. Consent Agenda a motion to approve the consent agenda as read, as read was made by Board member Swanson and seconded by Board member Freeman. Vote: Passed 6-0

**Board of Adjustment Meeting
June 11th, 2013**

Case No.: BA13-023

Location: 1841 South Greenfield Road

Subject: Requesting a Special Use Permit to modify an existing Comprehensive Sign Plan in the LC zoning district. (PLN2013-00130)

Decision: Approved with Conditions

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

Motion: It was moved by Board member Swanson seconded by Board member Freeman to approve case BA13-023 with the following conditions:

1. *Compliance with sign plan submitted, except as modified by the conditions listed below.*
2. *The electronic message display shall comply will all requirements of §11-41-8(D)17 as it relates to the means and frequency of message changes and light intensity of the display.*
3. *Removal of the existing detached monument sign on this site prior to construction of the new detached monument sign.*
4. *Compliance with all requirements of Development Services in the issuance of sign permits.*

Vote: Passed (6-0)

FINDINGS

- 1.1** The originally approved CSP allows five monument signs, with an aggregate height of 44 and aggregate sign area of 171 square feet along Greenfield Road. This modification allows six monument signs with an aggregate height of 52.5 feet and aggregate sign area of 220 square feet along Greenfield Road, which remains significantly less than standard sign code allowances (aggregate height of 64.5 feet and aggregate sign area of 645 square feet).
- 1.2** As justification for the request the applicant has noted issues with sign visibility based on the size and setback of the sign compounded by a curve in Greenfield Road. Additionally, the applicant has noted that the 7.4 square foot tenant sign panel is smaller than average, including recent CSP modification. Finally, the proposed sign will remain consistent with the originally approved CSP.
- 1.3** Previous CSP modification allowed the adjacent carwash an individual monument sign with an overall height of seven feet and sign area of 32 square feet. Consistent with that approval the Culver's will be allowed an individual monument sign with an overall height of 7.5 feet and sign area of 32 square feet.

Board of Adjustment Meeting
June 11th, 2013

Case No.: BA13-026

Location: 2055 South Power Road

Subject: Requesting a Special Use Permit to allow the number of special events to exceed the maximum allowed in the LC-PAD zoning district. (PLN2013-00199)

Decision: Approved with Conditions

Summary: Sherri Call, the applicant, presented the case to the Board. Ms. Call stated her family has been running a haunted house out of their garage and would like to expand to the location on Power Road.

Board member Montague asked the applicant if she lives near the site. Ms. Call stated she lived five miles down the road.

Board member Swanson asked the applicant about insurance and entrance fee. Ms. Call stated they do have liability insurance and will charge a minimum fee to enter the haunted house.

Board member Freeman asked the applicant about the hours and days of operation. Ms. Call stated she is willing to negotiate the days and hours of operations.

Bruce French, 2104 N. Edgewater, spoke in opposition of the request. He stated the home will be 40 yards from the haunted house site. Mr. French is concerned about the noise from the haunted house.

Ms. Call stated she has a letter of support from one of the neighbors; however, could not find her address.

Discussion ensued amongst the board members concerns days and hours of operations.

Motion: It was moved by Board member Swanson and seconded by Board member Montague to approve case BA13-026 with the following conditions:

1. *Compliance with the site plan and operation plan submitted.*
2. *Signage visible from outside the boundaries of the site shall not be displayed prior to nor after the dates of the special event, as specified in the Special Event license.*
3. *The Special Use Permit shall include thirty (30) days for event set-up and eight (8) days for event tear-down.*
4. *Compliance with all requirements of the Development Services Division in the issuance of building Permits.*
5. *Sanctum of Horror staff will be utilized as parking guides to make sure event overflow parking does not spill into the adjacent residential neighborhood.*
6. *Compliance to the hour of operations from 7:00 PM to 10:00 PM for the following days: October 11th, 12th, 18th, 19th, 25th, 26th, 31st and November 1st.*

Board of Adjustment Meeting
June 11th, 2013

7. *Compliance to the City of Mesa noise standards as per Police Regulations as identified in Title 6, Chapter 12 of City Code.*

Vote: Passed (5-1 Harris- nay)

FINDINGS

- 1.1** Approval of the project will advance the goals and objectives of and is consistent with the policies of the General Plan and any other applicable City plan and/or policies;
- 1.2** The location, size, design, and operating characteristics of the project are consistent with the purposes of the district where it is located and conform with the General Plan and with any other applicable City plan or policies;
- 1.3** The project will not be injurious or detrimental to the adjacent or surrounding properties in the Outlet Mall area, nor will the project or improvements be injurious or detrimental to the neighborhood or to the general welfare of the City; and
- 1.4** Adequate public services, public facilities and public infrastructure are available to serve the project.

Board of Adjustment Meeting
June 11th, 2013

Case No.: BA13-027

Location: 658 East 8th Avenue

Subject: Requesting a: 1) Special Use Permit for an Alternative Parking Plan to allow a reduction in the required covered parking spaces sizes; and 2) Variance to allow an encroachment into the required rear and side yards in the RS-6 zoning district. (PLN2013-00206)

Decision: Approved with Conditions

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

Motion: It was moved by Board member Swanson seconded by Board member Freeman to approve case BA13-027 with the following conditions:

1. *Compliance with the sign plan submitted, except as modified by the conditions listed below.*
2. *Provision of a minimum garage depth of eighteen feet (18').*
3. *Compliance with all requirements of the Development Services Division with regard to the issuance of building permits.*

Vote: Passed (6-0)

FINDINGS

- 1.1** The variance approved allows the enclosure of an existing carport with a three-foot setback into a garage, where a five-foot setback is currently required by the Zoning Ordinance. The proposal does not expand the building footprint or roofline beyond existing, which conformed to zoning regulations at the time. In addition, the variance has been approved to allow a 13'-0" W x 21'-7" D garage, where the current minimum size for a two-car garage is 20' W x 22' D. The approved width maintains the current carport width.
- 1.2** As justification for the approved variance, the applicant has noted: 1) that the home was constructed in 1959 with a three foot setback; 2) the existing carport setback is a pre-existing condition not created by the applicant; 3) strict compliance with setback requirements would deprive the applicant of the ability to have enclosed parking, which is standard in more recent residential developments; 4) the request does not grant special privilege unavailable to other similar zoned properties as garages are common in the neighborhood and RS-6 zoning in general.
- 1.3** Strict compliance with current setback requirements would deprive the property of privileges enjoyed by other properties within the RS-6 Zoning District that are allowed garages. Further, the hardships (existing 3-foot setback and carport width and depth) that prevents enclosure of the carport to a garage consistent with Code standards was not self-imposed and reasonable options to comply with these Code requirements do not exist.
- 1.4** While staff supports the requested variance, there is concern with the proposed garage width. As required by the current Code, a two-car garage is 20'W x 22'D. Such width and depth is an increase over past width and depth requirements of 18' W x 18' D. Due to the constraints of the site, the width of the carport cannot be increased without further reducing the setback and/or significantly altering the home construction. Neither of these options is reasonable given the request.

Board of Adjustment Meeting
June 11th, 2013

Case No.: BA13-028

Location: 1825 and 1831 South Recker Road

Subject: Requesting: 1) a Variance to allow the reduction of required lot size; and 2) a Variance to allow a reduction of the required setbacks, both in the AG zoning district. (PLN2013-00201)

Decision: Approved with Conditions

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

Motion: It was moved by Board member Swanson seconded by Board member Freeman to approve case BA13-028 with the following conditions:

1. *Compliance with the site plan as submitted.*
2. *Applicant to prepare exhibits for lot line adjustment, record and provide a copy of the recorded documents prior to issuance of a building permit.*
3. *Compliance with all requirements of the Development Services Division with regard to the issuance of building permits.*

Vote: Passed (6-0)

FINDINGS

- 1.1 Variance to allow the reduction of required lot size and to allow a reduction of the required setbacks, both in the AG zoning district.
- 1.2 Variance to allow for the adjustment of lot lines between two existing lots to provide access to utilities for the parcel that currently does not have frontage on the Right of Way.
- 1.3 The property, zoned AG, was divided into two parcels in the 1970s and annexed in 1982. Parcel 1 fronts the right-of-way and is developed with a single residence. Parcel 2 is to the east and does not have right of way frontage.
- 1.4 The applicant is proposing a lot-line adjustment to create a flag from Parcel 2, the rear property, to Recker Rd. to allow utilities, and for a variance to allow the use of RS-43 development standards with relief from the required width of frontage.
- 1.5 Utilities cannot be served across one property to another.
- 1.6 Although zoned for agriculture the area has historically developed as a single family neighborhood with agricultural uses to the rear. This property is exceptional in that a separate parcel was created behind the house.
- 1.7 Most other properties in the vicinity are single houses on single parcels that have frontage on Recker Rd. Future lot splits would not be supported and would not have justification for a variance.
- 1.8 The Zoning Ordinance establishes setback requirements that are designed for large agricultural uses and do not leave room for residential development of the lot.
- 1.9 The parcels were created before being annexed into the City. This makes Parcel 2 a legal lot of record which is entitled to be recognized and developed.

**Board of Adjustment Meeting
June 11th, 2013**

- Case No.:** BA13-029
- Location:** 8049 East Encanto Street
- Subject:** Requesting a: 1) Special Use Permit to allow the rental of an accessory dwelling unit in the RS-9 zoning district. (PLN2013-00207)
- Decision:** Approved with Conditions
- Summary:** Ashley West, the owner and applicant, presented the request to the Board. Ms. West stated she is requesting this SUP for the added security of having an additional person on site.
- Board member Hitchens asked the applicant if she owned the home when the addition was constructed. Ms. West stated she did not own the home at the time of construction.
- Board member Freeman asked the applicant if she was comfortable with an added condition if the SUP was attached to just her. Ms. West stated she would prefer if it ran with the property but would be fine if it was tied to her ownership.
- Staff gave a brief staff report.
- Board member Swanson asked staff if the Board is able to add a condition restricting the number of residents. Mr. Sheffield stated it would be hard to enforce and would recommend the Board to not add that condition.
- Board member Stradling asked staff what regulations someone renting out a home would face. Mr. Sheffield responded that the Zoning Ordinance does not define family. Up to five unrelated people can live in a single-residence home. Mr. McVay clarified there is a difference between renting a room versus renting an accessory dwelling unit. Mr. McVay stated the accessory dwelling unit does have a full kitchen and can function as a separate unit.
- Motion:** It was moved by Board member Swanson seconded by Board member Freeman to approve case BA13-029 with the following conditions:
1. *Compliance with the site plan exhibit and narrative submitted.*
 2. *Compliance with all other zoning development standards for the RS-9 district.*
 3. *Compliance with all requirements of the Development Services Division in the issuance of any necessary building permits.*
 4. *Compliance with all requirements of the Tax and Licensing Division.*
 5. *The Special Use Permit will expire upon the change of ownership.*
- Vote:** Passed (5-1 Swanson-nay)

FINDINGS

Board of Adjustment Meeting
June 11th, 2013

- 1.1** The entrance to the accessory dwelling unit is not visible from public right-of-way. Although there is not a requirement in the Zoning Ordinance, the applicant stated in the narrative submitted, the occupant of the accessory dwelling unit would be able to utilize one bay in the existing two-car garage.
- 1.2** The approved use of the accessory dwelling unit is to provide additional security for the home since the applicant works long hours in downtown Phoenix. The owner will continue to reside in the primary dwelling unit.
- 1.3** The applicant has noted the following as justification for the granting of the Special Use Permit: 1) added security for the home and neighborhood; 2) the entrance and the parking will not cause any distractions; 3) the tenants will be thoroughly screened.
- 1.4** The rental of the existing accessory dwelling unit will not have a detrimental impact on the neighborhood nor will it alter the existing single residence character on site.

**Board of Adjustment Meeting
June 11th, 2013**

Case No.: BA13-030

Location: 1726 North Country Club Drive

Subject: Requesting: 1) a Development Incentive Permit to allow the redevelopment of an existing car wash; and 2) a Special Use Permit to allow the car wash, both in the LC zoning district. (PLN2013-00091)

Decision: Approved with Conditions

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

Motion: It was moved by Board member Swanson seconded by Board member Freeman to approve case BA13-030 with the following conditions:

1. *Compliance with the site plan, landscape plan, and building elevations submitted, except as modified by the conditions listed below.*
2. *Compliance with all requirements of Design Review.*
3. *Compliance with all requirements of the Development Services Division with regard to the issuance of building permits.*

Vote: Passed (6-0)

DEVELOPMENT INCENTIVE PERMIT FINDINGS:

1. The current land use conforms with Zoning Ordinance permitted uses for Limited Commercial as well as the General Plan designation of Neighborhood Commercial. The redevelopment of the defunct car wash also conforms with the goals and policies of Section 06 – Revitalization and Redevelopment of the General Plan which seeks to prevent urban decay and blight.
2. The approved development is continuation of an existing use that has been a part of this neighborhood for 30 years. The approved improvements will not result in a use that is more intense than the surrounding neighborhood within a 1200’ buffer.
3. The architectural elements, construction and landscape materials, and other site improvements of the approved car wash meet the intent of the Design Standards of this Ordinance.

SPECIAL USE PERMIT FINDINGS:

1. Approval of the this car wash redevelopment will advance the goals and objectives of and is consistent with the policies of the General Plan and any other applicable City plan and/or policies;
2. The location, size, design, and operating characteristics of the approved car wash are consistent with the purposes of the district where it is located and conform with the General Plan and with any other applicable City plan or policies;
3. The redeveloped car wash will not be injurious or detrimental to the adjacent or surrounding properties in the area, nor will the project or improvements be injurious or detrimental to the neighborhood or to the general welfare of the City; and
4. Adequate public services, public facilities and public infrastructure are available to serve the proposed project.

**Board of Adjustment Meeting
June 11th, 2013**

Case No.: BA13-031

Location: 101 North 38th Street

Subject: 101 North 38th Street (District 2) - Requesting an extension of the 1-year time limit for an approved Variance, which authorized a residential fence that exceeds the maximum height allowed in the RM-4 zoning district. (PLN2012-00130)

Decision: Withdrawn

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

Motion: It was moved by Board member Swanson seconded by Board member Freeman to withdraw case BA13-031.

Vote: Passed (6-0)

**Board of Adjustment Meeting
June 11th, 2013**

1 Other Business:

None

Respectfully submitted,

Gordon Sheffield, AICP CNU-a
Zoning Administrator

Minutes written by Kaelee Wilson, Planning Assistant