



Board of Adjustment

Minutes

City Council Chambers, Lower Level
October 13, 2009

Board Members Present:

Garrett McCray, Chair
Scott Thomas, Vice Chair
Nicholas Labadie
Tyler Stradling
Judah Nativio
Dianne von Borstel

Board Members Absent:

Greg Hitchens (unexcused)

Staff Present:

Gordon Sheffield
John Wesley
Angelica Guevara
Mia Lozano-Helland
Tom Ellsworth
Wahid Alam

Others Present:

Jorge Calderone
Kit Filhey
Chris White
Brian Metz
Others

The study session began at 4:40 p.m. The Public Hearing meeting began at 5:30 p.m. Before adjournment at 6:35 p.m., the following items were considered and recorded.

Study Session 4:40 p.m.

- A. The study session began at 4:40 p.m. The items scheduled for the Board's Public Hearing were discussed.
- B. Zoning Administrator update – Mr. Sheffield noted that on November 18th, 2009 the Planning and Zoning will hear a presentation by the consultant, Michael Dyett, regarding the consolidation of the Zoning Ordinance update. Mr. Sheffield briefly summarized the process, introduction and schedule.

Public Hearing 5:30 p.m.

- A. Consider Minutes from the September 8, 2009 Meeting A motion was made to approve the minutes by Boardmember von Borstel and seconded by Boardmember Thomas. Vote: Passed 6-0
- B. Consent Agenda #1 A motion to approve the consent agenda as read was made by Boardmember Thomas and seconded by Boardmember Labadie. Vote: Passed 6-0

Consent Agenda #2 A motion to approve the consent agenda as read was made by Boardmember Nativio and seconded by von Borstel. Vote: Passed 5-0 (Thomas abstaining)

**Board of Adjustment Meeting
October 13, 2009**

Case No.: BA09-030 (PLN2009-277)

Location: 5009 East Dallas

Subject: Requesting a variance to allow an addition to encroach into the required rear yard in the R1-7 zoning district.

Decision: Approved with conditions

Summary: Brian Metz, the applicant, represented the case. Mr. Metz explained his request and provided details and noted that he has started the project prior to obtaining a building permit. Chairman McCray asked if the slab had been an existing patio. Mr. Metz explained that area in question had been an Arizona room and his intent was to enclose the existing space into livable space. Mr. Metz further explained that due to the pie-shaped configuration and the large size of the surrounding lots, there is a large distance between the addition and the adjacent homes. He further stated that he is not in agreement with the staff recommended 3' encroachment. Ms. Guevara provided the staff report and recommendation. Boardmember Stradling asked about the pop out and if the configuration and distance between homes is justification for the variance. Zoning Administrator Sheffield explained that staff's intent was to limit the degree of encroachment and modify the request to allow an approval. He also provided information and history related to yard encroachments.

Motion: It was moved by Boardmember Nativio, seconded by Boardmember Labadie to approve BA09-030 with the removal of condition of approval 2 and retaining the remaining conditions.

1. *Compliance with the site plan submitted, except as modified by the condition listed below.*
2. *Compliance with all applicable City of Mesa codes and Regulations.*
4. *Compliance with all requirements of the Building Safety division with regard to the issuance of building permits.*

Vote: Passed 5-1

Findings:

1.1 The subject site is a 7,436 s. f. lot zoned R1-7 surrounded by existing single family residences also zoned R1-7. The adjacent lots on Dallas Street are of similar size and shape. The parcels within the R1-7 zoning district require a minimum of a 20 foot rear yard setback and are all allowed an open patio within 15' of the rear property line. The site plan includes the general location of the existing home, the existing swimming pool, and the proposed addition. The addition is permitted provided a minimum 20-foot rear yard setback is maintained from the rear (southern) property line.

1.2 The subject lot is 211 located within "Stoneybrook" subdivision, a 220 lot subdivision which was platted in 1984. Two pie shaped lots back up to the subject site. The first parcel (lot no. 199) is

**Board of Adjustment Meeting
October 13, 2009**

16,004 sq. ft. and the second (lot no. 200) is 12,171 sq. ft.

- 1.3** To justify the variance, the applicant noted: 1) the addition does not interfere with the neighbors; 2) the neighbors at the rear of the subject parcel have large pie shaped lots with two-story homes located at the front of their lots; 3) The addition encroaches on a very small percentage of the lot width; 4) this home's square footage is 1551 and the surrounding homes are 2300 square feet; and 5) the proposed room addition will add to the resale value of the home and the surrounding homes.
- 1.4** While not justification for a variance, it is important to note that if the homeowner wanted to build an open patio of the same area and in the same location, it would be allowed.
- 1.5** The properties to the sides are also single-residences of similar size and shape. The properties to the south are two-story single family residences of larger size on larger lots. Those lots are also long pie shapes with a 20 foot rear yard setback development.

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**Board of Adjustment Meeting
October 13, 2009**

Case No.: BA09-031 (PLN2009-00305)

Location: 855 East Broadway Road

Subject: Requesting a Substantial Conformance Improvement Permit to allow the redevelopment of an existing building for automobile sales in the M-1 zoning district.

Decision: Approval with conditions

1. *Compliance with the site plan submitted except as modified by the conditions listed below.*
2. *Provision of a minimum six-foot (6') high masonry wall along the south property line.*
3. *Provision of 16-foot parking stalls allowing an additional two-foot wide foundation base adjacent to the south elevation of the building.*
4. *Provision of a minimum 12-inch screen wall along Broadway Road.*
5. *Replacement of the existing chain link fencing along Fraser Drive with wrought iron (maximum height-42-inches).*
6. *Construction of a six-foot masonry wall along the south property line.*
7. *Provision to allow a maximum of two years from the approval date of the Substantial Conformance Improvement Permit to complete the paving of the Vehicle Display area indicated on the site plan at the northwest corner of the site, in the interim period, the vehicle display area surface will be an improved dustproof parking surface with crushed rock or aggregate that is a minimum of three inches (3") thick, contained by a permanent border. The crushed rock or aggregates shall be sprayed with a dust fixative to further reduce the release of dust and PM-10 particles into the atmosphere.*
8. *Landscaping and building elevations shall be reviewed and approved by Planning Division staff consistent with the intent of Zoning Code requirements.*
9. *Compliance with all requirements of the Building Safety Division with regard to the issuance of building permits.*

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

Motion: It was moved by Boardmember Thomas, seconded by Boardmember Labadie to approve BA09-031 on the consent agenda.

Vote: Passed 6-0

Findings:

- 1.1 The applicant is proposing car sales lot in an M-1 Zoning District. Development of the site proposes several deviations from current Code requirements that may be approved by a Substantial Conformance Improvement Permit.
- 1.2 The applicant has proposed deviations from current Code requirements related to building and landscape setbacks, landscaping requirements, foundation base, and on-site parking requirements.
- 1.3 Consistent with the requirements of a Substantial Conformance Improvement Permit, staff review

Board of Adjustment Meeting
October 13, 2009

has found that compliance with current Code requirements would require the demolition of the existing building and would preclude a use authorized by the zoning district.

- 1.4** The applicant has proposed several improvements to the overall site related to setbacks, foundation base, parking, outdoor storage, and site activity that represent significant compliance with current Code requirements.
- 1.5** Staff has recommended additional improvements to the proposed site plan intended to provide increased compliance with current Code requirements and mitigate the impact on the neighboring residential zoned property.
- 1.6** The alignment of the buildings to the east and west that were constructed in a similar time frame as this existing building have a similar reduced setback along Broadway Road, which establishes that the reduced setback is a continuation of the existing development pattern.
- 1.7** The proposed site plan and site improvements will require review and approval of an Administrative Design Review and landscaping requirements will be reviewed and approved by staff for compliance with the intent of the Zoning Code.
- 1.8** The proposed site plan, including staff recommended conditions for approval, substantially conforms with the intent of the Code and is consistent with and not detrimental to adjacent properties. Additionally, the proposed development will bring the site into a greater degree of conformance than currently exists.

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**Board of Adjustment Meeting
October 13, 2009**

Case No.: BA09-032 (PLN2009-00316)

Location: 10825 East Baseline Road

Subject: Requesting a modification of an existing Special Use Permit for a Comprehensive Sign Plan for a retail establishment in the C-2 zoning district.

Decision: Approved with conditions

Summary: Tim Gallup, architect for Walgreens, represented the case and cited concerns as follows: Walgreens was not aware that the mortar and pestle symbols were interpreted to be signage; accuracy of staff sign area calculation; the two-sided tower design is intended to include the two internal mortar and pestle designs on the inside of the windows and should not be subject to a permit. Mr. Sheffield commented that the interpretation regarding these types of Walgreens signs was made several years ago. The mortar and pestle design, as placed on the tower element of this particular building, is considered an external sign. Staff recommendation of approval is for three sign and a total of 189 sq. ft. Mr. Sheffield further cited that the applicant has failed to justify the additional 29 sq. ft. Staff has found that there are no special circumstances or unique conditions to validate the increase in sign area. Historically, previous Walgreen's approvals have included signage at 160 sq. ft or slightly over, and one mortar and pestle design, but not to the level of 189 sq. ft. Mr. Sheffield also provided an explanation of the internal vs. external signage interpretation. Chairman McCray clarified with the applicant that 225 sq. ft. was the amount of signage he was requesting.

Motion: It was moved by Boardmember Stradling, seconded by Boardmember von Borstel to approve BA09-032 as recommended by staff with a modification to condition 3 to allow three signs for a total of 190 sq. ft.

Vote: 3-2 (Thomas abstaining, Stradling and McCray nay) **Motion failed (a minimum of 4 votes are needed to pass a motion approving a request)**

After additional discussion between boardmembers and staff a second motion was submitted.

Second Motion: It was moved by Boardmember Labadie, seconded by Boardmember von Borstel to approve BA09-032 as recommended by staff with the exception of condition 3 to be revised to a maximum of 190 sq. ft. and four signs.

1. *Compliance with the sign plan submitted, except as modified by the conditions listed below.*
2. *Compliance with the previously approved comprehensive Sign Plan, case BA08-21 except as modified by this case.*
3. *The maximum sign area for Building 1 is 190 sq. ft. and four (4) signs.*
4. *Compliance with all requirement of Section 11-19-8 (D) 17 related to electronic message displays.*
5. *The number and aggregate sign area of attached signs for tenants shall comply*

**Board of Adjustment Meeting
October 13, 2009**

with current Code requirement for Buildings 2 and 3, as well as Pad 2.

6. *No attached signage shall be permitted on the south elevation of Buildings 1, 2, and 3.*
7. *No attached signage shall be permitted on the east elevation of Building 3.*
8. *Attached signage on the south elevation of Pad 2 shall be limited to directional signage only.*
9. *Compliance with all requirements of the Building Safety Division with regard to the issuance of sign permits.*

Vote: 4-1 (Thomas abstaining, Nativio nay)

Findings:

- 1.1 The Zoning Code allows a total of 160 square-feet in sign area and 3 signs for Building 1, which is a Walgreen's store.
- 1.2 Per section 11-19-8 (B) 1.(i) of the Zoning Ordinance, Signs within the interior, or on the inside of the windows of a building are not subject to a permit, however it has been interpreted that the "Mortar & Pestle" sign for the Walgreen's does not technically qualify because it is not actually within the interior or on the inside of the windows of the building itself. It is in an open area over the entry tower which is not open to the interior of the store. However, the design of the tower is integrated into the building design and is intended to be perceived as part of the building.
- 1.3 The request is for attached sign area for Building 1 (Walgreen's), greater than allowed by current Code. Increased sign area is justified by the need for signs to be in proportion to the building elevation and the fact that Walgreen's does not have a dedicated monument sign. Also, the integration of the entry tower into the building design, creating the appearance that it is open to an area within the main building.
- 1.4 The development site does not contain unique or unusual physical conditions, such as topography, proportion, size or relation to a public street that would limit or restrict normal sign visibility.
- 1.5 The Design Review Board has previously reviewed and approved the building architecture for the overall development.

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**Board of Adjustment Meeting
October 13, 2009**

Case No.: BA09-033 (PLN2009-00327)

Location: 445 North Stapley Drive

Subject: Requesting: 1) a variance to allow less than the minimum number of parking spaces required for a health club; and 2) modification of an existing Special Use Permit for a Comprehensive Sign Plan, both 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 Nativio, seconded by Boardmember von Borstel to approve this case on the consent agenda.

1. Compliance with the sign plan and exhibits submitted.

2. Compliance with all requirements of the Building Safety Division with regard to the issuance of building permits.

3. The construction and placement of individual signs contained in the approved Comprehensive Sign Plan shall be subject to the issuance of sign permits in accordance with 11-19-8(E).

Vote: Passed 5-0 (Thomas abstain)

Findings:

- 1.1** The Staff is supportive of the reduction in the amount of required parking for the health club proposed at 445 North Stapley Drive. The applicant submitted a parking study using the LA Fitness locations at the northeast corner of Greenfield Road and Baseline Road, and at the northwest corner of Gilbert Road and Southern Avenue. The parking study analyzes the demand for parking at both locations during peak days and hours to establish a parking count per square foot for each location. The parking study concludes that the parking ratio at the Greenfield site is one space per 194-sf and the ratio at the Gilbert Road site is one space per 247-sf. Both of these ratios are far below the zoning codes requirement of one space per 100-sf. The applicant plans to apply the more restrictive ratio of one space per 194-sf to this site.
- 1.2** There is precedence set through past Board actions for the granting of a parking variance in association with health clubs. The LA Fitness at the northwest corner of Gilbert and Southern was granted a variance in 1996 as part of Board of Adjustment case BA96-37. In that case the applicant submitted a parking study that included the parking counts for similarly sized health club facilities throughout the valley. The conclusion of that study was that a parking ratio of 5 to 6 spaces per 1000-sf was sufficient for health clubs of this size. A parking ratio of 5.6 spaces per 1000-sf, or 1 space per 179-sf was approved by the Board of Adjustment for the Gilbert road site. To date staff is unaware of any parking issues at this location.
- 1.3** The proposed revisions to the Comprehensive Sign Plan would allow a modification to the signage on the Albertson's building, now the LA Fitness building to allow one attached sign with 5' letters and a total sign square footage of 231-sf main building.

**Board of Adjustment Meeting
October 13, 2009**

- 1.4 The modification results in a reduction of the number of signs and the total sign square footage approved on the building.

- 1.5 The existing comprehensive sign plan was approved for signage related to a major grocery tenant. The signage needs for grocery stores includes signage of not only for the identification of the name of the store but of the types of services provided within the store (ie. Pharmacy, food, banks, etc...). The change in use to a health club requires the signage to be modified to meet the needs of a completely different type of use. The health club seeks signage for the main purpose of visibility for identification of the business name.

- 1.6 The reduction of the signage on the building reduces the amount of unneeded signage on the building and focuses the square footage to the identification of the building. The approved square footage allows clear identification of the building while maintaining a proper scale with the mass of the building.

- 1.7 The building was designed as a grocery store. The massing of the grocery building anticipated the inclusion of a logo and modifier signs. As part of the change of use from grocery to health club, the applicant has also proposed significant changes to the building elevation. These elevation changes anticipate large lettering of similar size to be located over the entrance. The modification to the comprehensive sign plan allows the signage to conform to the proposed revision to the architectural design of the building

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**Board of Adjustment Meeting
October 13, 2009**

Case No.: BA09-034 (PLN2009-00329)

Location: 2210 North Higley Road

Subject: Requesting variances: 1) to allow a fence to exceed the maximum permitted height; 2) allow a reduced landscape setback; and 3) reduce the quantity of landscape material for the development of a pump station in the M-2-AF zoning district.

Decision: Continued to the November 10, 2009 hearing.

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

Motion: It was moved by Boardmember Thomas, seconded by Boardmember Labadie to continue BA09-034 to November 10, 2009.

Vote: Passed 6-0

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**Board of Adjustment Meeting
October 13, 2009**

C. Other Business:

None

Respectfully submitted,

Gordon Sheffield, AICP
Zoning Administrator

Minutes written by Mia Lozano, Planning Assistant

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