

Board of Adjustment Minutes



**City Council Chambers, Lower Level
November 8, 2005**

Board members Present:

David Shuff, Chair
Greg Lambright, Vice Chair
Mike Clement
Dianne von Borstel
Roxanne Pierson
Dina Higgins

Board members Absent:

(none)

Staff Present:

Gordon Sheffield
Jeff McVay
Lena Butterfield

Others Present:

David Earnest
Jamie Smith
Richard Smith
Reese Anderson
Others

The study session began at 4:30 p.m. The Public Hearing meeting began at 5:30 p.m. Before adjournment at 6:00 p.m., the following items were considered and recorded on Board of Adjustment Tape # 336.

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 October 11, 2005 Meeting
It was moved by Boardmember Von Borstel and seconded by Boardmember Higgins, that the minutes of the October 11, 2005 Board of Adjustment meeting be approved. Vote: Passed 7-0
- B. Consent Agenda
Approval of the Consent Agenda, with the conditions noted in the staff reports, was moved by Boardmember Higgins, seconded by Boardmember Pierson. **Vote:** Passed 7-0

Board of Adjustment Minutes November 8, 2005

Case No.: BA05-036

Location: 9133 East Baseline Road

Subject: Requesting 1) a variance to allow the encroachment of parking spaces and a commercial building into the required street side landscape setback; and 2) an interpretation of Zoning Ordinance Sections 11-1-3, 11-14-2, and 11-15-1(B), in conjunction with the development of a new retail building in an existing group commercial center in the C-2-DMP district.

Decision: **Approved with Conditions**

Summary: This case was on the consent agenda and not heard on an individual basis. The applicant had previously withdrawn the request for interpretation. The decision to approve this case is based strictly on the variance request.

Motion: It was moved by Boardmember Higgins and seconded by Boardmember Pierson to approve this case on the consent agenda with the conditions put forth by staff.

1. *Compliance with the site plan as submitted, except as modified by the conditions listed below.*
2. *Removal and/or deletion of the nine parking spaces depicted on the Site Plan (page SP of the submittal, signed by Silvio Gabriel Popovsky and dated July 6, 2005) as being within 23' of the Baseline Road right-of-way.*
3. *Compliance with all requirements of the Design Review Board.*
4. *Compliance with all requirements of the Building Safety Division pertaining to the issuance of a building permit.*

Vote: Passed 7-0

Finding of Fact:

- 1.1 The commercial center has been largely developed, with only a few pad sites left to be built. This includes the existing circulation lanes within the center, as well as several parking fields design to serve each of the individual projects that collectively make up the center.
- 1.2 The project being proposed is relatively consistent with the site plan approved by the City Council for this site. However, that original site plan was approved before the revisions to Chapter 11-14 And 11-15 of the Zoning Ordinance. Projects approved before the revisions were adopted were given one year to build according to the Council/Board approved plans. This center was built within that time frame, but the pad site in question was not.
- 1.3 Section 11-1-3 requires that the entire site be brought into conformance with current requirements. It does not give special consideration to pad sites within

Board of Adjustment Minutes November 8, 2005

existing commercial centers.

- 1.4** A 6,000-sqft retail building requires only 16 parking spaces (1 space for each 375 sqft). Evaluated at a more stringent “shell commercial space” ratio (1 space for each 300 sqft), the minimum would still only be 20 spaces. Even with the removal of the nine spaces as recommended by staff, there will still be 33 spaces available in the parking field set aside for this pad site, or a ratio of 1 space for each 181 sqft. In addition, there are parking spaces available in adjacent parking fields. In total for the center, there is an excess of 150 spaces, including the loss of the nine spaces recommended by staff. Calculated as a ratio, there would be 1 space for each 217 sqft, for the entire center. Some surplus is seen as desirable to allow a degree of flexibility for more parking intensive uses to utilize the center in the future.
- 1.5** As recommended, no intrusions will be made into existing parking fields outside of this pad site, and circulation lanes will remain as existing. Removal of the parking spaces will widen the landscape setback to a point roughly equal to the alignment of the proposed building at 22', and bring the center into closer conformance with the current requirement of 30' for the width of landscape areas adjacent to arterial streets.

* * * * *

Board of Adjustment Minutes November 8, 2005

Case No.: BA05-045

Location: 1553 East Emerald Avenue

Subject: Requesting a variance to allow the required parking spaces to be located within the required front yard in the R1-6 district.

Decision: **Denied**

Summary: Mr. Ernest explained that the carport had been enclosed previous to his purchasing the home 11 years ago. He went on to add that there are others on his block that have enclosed carports and are parking on the street or in front setbacks. Boardmember Carter asked Mr. Sheffield if the parking space on the side of the house had to be paved or if the crushed rock that is there would be legal. Mr. Sheffield replied that crushed rock is permitted, because the requirement in a residential district is that the parking space be located on a dust proof surface. Boardmember Carter then inquired about the size of a legal parking space. Mr. Sheffield replied a legal parking space is 9' X 18', has independent access, and has 24 feet behind the space for backing out. He went on to add that the distance behind the parking space could be reduced because Mr. Earnest would be allowed to back into the street.

Mr. Carter then asked if Mr. Earnest could drive across his front yard to avoid getting a new driveway cut. Mr. Sheffield replied that yes, in theory, he could. Boardmember Higgins inquired about alternative parking on the site. Mr. Sheffield replied that Mr. Earnest could dedicate two spaces in the rear yard. Boardmemeber Clement inquired about the issue with code compliance. Mr. Sheffield replied in order for a new construction permit to be issued, the whole site needs to be brought into conformance with Mesa City Code. No permit had been issued for the garage enclosure, and no previous variance had been approved. Therefore, the applicant would be required to remove the garage enclosure that was constructed without a building permit before any new additions could be added.

Motion: it was moved by Boardmember Clement and seconded by Boardmember Lambright to deny case BA05-045.

Vote: Passed 7-0

Finding of Fact:

- 1.1 The carport was enclosed for additional living space by the previous homeowner, removing the required two (2) parking spaces provided outside the required front setback.
- 1.2 Building Safety is requiring the variance to issue a building permit for an attached patio cover. The garage was enclosed as living space without a building permit, and is considered a non-conforming attachment.

**Board of Adjustment Minutes
November 8, 2005**

- 1.3 The applicant may build a detached garage located in the rear one quarter (1/4) of the parcel provided it is separated at least six feet (6') from the existing structure, does not exceed ten feet (10') in height, and total lot coverage does not exceed 40 percent (40%).
- 1.4 Granting a variance would constitute a special privilege not available to other properties in the neighborhood that are required to maintain two (2) parking spaces behind the required front setback.

* * * * *

Board of Adjustment Minutes

November 8, 2005

Case No.: BA05-046

Location: 1855 South Signal Butte Road

Subject: Requesting Special Use Permits for an automobile service station and a car wash in the C-2-DMP district.

Decision: Approved with Conditions

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

Motion: It was moved by Boardmember Lambright and seconded by Boardmember Clement to put case BA05-046 on the consent agenda. No one was present to speak in opposition to the request. The applicant agreed to the conditions as recommended by staff, and a condition added during the study session as the request of the Board regarding the depth of certain parking spaces.

1. *Compliance with the site plan and landscape plan as submitted, except as modified by the conditions listed below.*
2. *Compliance with all requirements of the Design Review Board.*
3. *Compliance with the conditions for approval of the administrative site plan modification.*
4. *Compliance with the Superstition Gateway Comprehensive Sign Plan (Case BA05-035) with final revision date of 09-07-05, as related to the size of the pad monument sign.*
5. *The detached monument sign shall comply with the provisions of Sections 11-19-8 (D) and 11-19-8 (E) of the Zoning Code.*
6. *The following stipulations refer to the Signage Plan from RHL Design Group with a created date of 10-25-05 and stamped received by City of Mesa 10-25-05:*
 - a. *Attached signage shall include signs B, C, D, H (west elevation), and J (west elevation).*
 - b. *Attached signage shall not exceed 160 square feet (160 sq ft) total.*
 - c. *Sign D shall read "Car Wash" instead of "Car Wash Entrance".*
 - d. *Signs H and J on the south elevation shall be removed.*
 - e. *Signs E, F, and G shall be allowed as directional signs with maximum letter size of six inches (6")*
 - f. *Sign F shall read "Exit" instead of "Car Wash Exit"*
7. *Compliance with all requirements of the Building Safety Division with regard to the issuance of a building permit.*
8. *The depth of parking spaces adjacent to the finishing canopy shall be reduced from 21 feet to 18 feet.*

Vote: Passed 7-0

Finding of Fact:

- 1.1 Automotive service stations and car washes are permitted uses in the C-2 zoning district, subject to approval of special use permits.
- 1.2 A site plan for Superstition Gateway East, which includes an automobile service station

Board of Adjustment Minutes November 8, 2005

use at this location, was approved by the City Council on April 4, 2005

- 1.3** The General Plan recommends the subject area for Regional Commercial uses. The General Plan recognizes automobile service stations and car washes as supportive uses to Regional Commercial developments.
- 1.4** General Plan policy LU-4.1c states, "Limit auto-oriented commercial uses to a maximum of two corners of an arterial street intersection." Consistent with that policy, the nearest competing use is nearly one mile from the subject site. The nearest residential use is approximately 2100 feet (0.4 mile) away and separated by other commercial uses.
- 1.5** The site plan is currently the subject of an administrative site plan modification and the building architecture will be presented to the Design Review Board on November 2, 2005.

* * * * *

Respectfully submitted,

Gordon Sheffield, AICP
Zoning Administrator

Minutes written by Lena Butterfield, Planning Assistant

G:\Board of Adjustment\Minutes\2005\11 November