

Zoning Administrator Hearing

Minutes



**John S. Gendron
Zoning Administrator/Hearing Officer**

July 31, 2012 – 1:30 p.m.

View Conference Room, 2nd Floor
55 North Center Street
Mesa, Arizona, 85201

Staff Present

Jeff McVay
Angelica Guevara
Jason Sanks
Kaelee Wilson

Others Present

Z. Hess
Carmen Mulligan
Bill Petrie
Josh Gonzales

CASES:

Case No.: ZA12-003

Location: 507 West 6th Drive

Subject: Requesting a variance to allow a room addition to encroach into the required side yard in the RS-6 zoning district. (PLN2012-00179)

Decision: Denied

Summary: John Gonzales represented the applicant in this case. Mr. Gonzales explained the special circumstance present in this case is the size of the home. Prior to the addition, the home had two bedrooms and two bathrooms. Mr. Gonzales stated other homes in the neighborhood are larger. Mr. Gendron stated if the applicant built the addition in the rear yard, there would be no need for a variance.

City of Mesa
Zoning Administrator Minutes
July 31, 2012

- Case No.:** ZA12-007
- Location:** 1914 South Mesa Drive
- Subject:** Requesting a Special Use Permit to allow an Electronic Message Display to change more frequently than once per hour in the LI zoning district. (PLN2012-00255)
- Decision:** Approved with the following conditions:
1. *Compliance with the site plan submitted except as modified by the conditions below.*
 2. *Displays of static messages, where the message change sequence is accomplished immediately or by means of fade or dissolve modes shall be permitted. Spinning messages or other full animation is prohibited.*
 3. *All unpermitted signs on the property shall be removed.*
 4. *Message display shall be visible for 5 minutes minimum.*
 5. *Sign area and height to comply with Zoning Ordinance requirements.*
 6. *Sign location to be reviewed and approved with construction drawings submitted for permit review.*
 7. *Compliance with all requirements of the Building Safety Division with regard to the issuance of building permits.*
- Summary:** Z. Hess, both the applicant and sign contractor, represented this case. Z stated that he agreed with the conditions set forth in the staff report. Mr. Gendron asked staff why the recommended message display time is five minutes when most message display signs get approved for a message change every fifteen seconds. Staff member Jason Sanks responded that there is a significant amount of traffic and pedestrians on this curve of Mesa Drive. He consulted with the Police Department and they also recommended five minutes due to the number of pre-existing distractions.

Finding of Fact:

1. Based on Mesa Zoning Ordinance Section 11-41-8-D.17.a/b, an EMD may change messages once every hour without the approval of a Special Use Permit. More frequent message rotations may be requested by applying for a Special Use Permit. The applicant's request is to allow messages to change every 15 seconds and is similar to other requests in various locations throughout Mesa. The Zoning Administrator/Board of Adjustment may attach conditions to the approval of such electronic message displays, including limitation on the minimum time period for the display of each message, to the extent necessary to ensure that the granting of the Special Use Permit will not have a detrimental effect on the surrounding area or the public welfare. Consideration for approval requires evaluation of the following criteria:
 - a. The speed and volume of the vehicular traffic visually exposed to the sign
 - b. The presence of other signs or distracting influences in the proximity to the sign location; and
 - c. The extent to which the design of the sign is compatible with other signs located on the premises

City of Mesa
Zoning Administrator Minutes
July 31, 2012

2. Planning staff conducted a site visit to understand the context of this EMD sign in its environment and understand if the request for more frequent message changes would have a detrimental impact on the area. Planning staff found the intersection congested with both vehicles and pedestrians and subsequently presented the request to the Traffic and Police Departments for review. Their review included research on traffic accident and citation statistics for this stretch of Mesa Drive immediately south of US Highway 60. Several influences were found to make this sign location very concerning to Mesa’s Crime Prevention Officer as well as staff planners. They are as follows:

- a. Unique to this part of Mesa on its north/south arterials is the realignment of the street grid with Baseline Road. This distinct curve presents a distracting feature not found on most other arterial alignments in the City. The sign is located directly on this curve at the intersection of Javelina Avenue. The posted speed limit on Mesa Drive in this location is 40mph.
- b. High levels of pedestrian activity occur at the intersection of Javelina Avenue and Mesa Drive because of the Maricopa County Court complex and Motor Vehicle Division. Pedestrians are patronizing the QT convenience store located on the East side of Mesa Drive as well as arriving to the area on foot.
- c. The freeway interchange is located ¼ mile north of here and multiple driveway cuts are located along this stretch of Mesa Drive causing significant traffic congestion. The QT convenience store, court complex, and auto dealerships cause high traffic counts in the area.
- d. The EMD is a full color display and will be very noticeable to passersby. While capable of full animation, the applicant has been advised that this is a prohibited feature and must be disabled. That said, static colorful images provide a back drop to the featured font and message changes and are more noticeable than typical LED letter displays because the entire graphical image “dissolves” or “fades” and a new one is presented with each change.
- e. Since 2009, public safety officials have seen significant increases in accident and traffic citation rates for this immediate stretch of Mesa Drive, including those for the immediate intersection at Mesa Drive and Javelina Avenue. Officials are concerned that the additional distraction of frequent message changes on the EMD at the intersection could further contribute to this trend. Please note that 2012 figures are not available yet. The statistics are provided within the table below:

Year	Accidents – Baseline to HWY 60	Accidents - Intersection	Traffic Citations – Baseline to HWY 60	Traffic Citations - Intersection
2009	15	1	30	7
2010	23	4	54	9
2011	39	10	63	14

City of Mesa
Zoning Administrator Minutes
July 31, 2012

3. Public Safety and Planning staff find that due to the volume of traffic, the significant presence of other distracting influences, and increasing citation and accident rates in this location, the approval of this SUP should include a condition of a minimum duration of 5 minutes for each message. This time frame will ensure that the majority of traffic in this area will pass the sign and not notice a message change and be distracted. Staff finds that any additional frequency of message changes could be a detriment to the public safety of both pedestrians and drivers in this location. While this recommendation is more restrictive than what is requested by the applicant, the condition would still allow the applicant to obtain 11 more message changes per hour than allowed without approval of the SUP.
4. The applicant has notified all property owners within 300-feet from the site. Staff has not received any comments or concerns from neighboring property owners concerning this request.
5. The messages will not “flash”; they will comply with the transition requirements specified in the Sign Ordinance by means of fade, dissolve, or instantaneous change. The displays will be changed and programmed via wireless radio communication.
6. The LED displays of the EMD will have factory ceilings set and locked by the manufacturer, as required by Section 11-41-8.D.17c. The end-user will be prohibited from manipulating them by means of password-protected software, configuration file or other method. The light intensity levels will also be set to comply with Ordinance

City of Mesa
Zoning Administrator Minutes
July 31, 2012

Case No.: ZA12-008

Location: 243 North Power Road

Subject: Requesting a Special Use Permit to allow an Electronic Message Display to change more frequently than once per hour in the LC zoning district. (PLN2012-00256)

Decision: Approved with the following conditions:

1. *Compliance with the site plan submitted except as modified by the conditions below.*
2. *Displays of static messages, where the message change sequence is accomplished immediately or by means of fade or dissolve modes shall be permitted. Spinning messages or other full animation is prohibited.*
3. *Message display shall be visible for 15 seconds minimum.*
4. *Sign area and height to comply with Zoning Ordinance requirements.*
5. *Sign location to be reviewed and approved with construction drawings submitted for permit review.*
6. *Compliance with all requirements of the Development Services Office with regard to the issuance of building permits.*

Summary: Z. Hess was both the applicant and sign contractor for this case. The applicant stated that he agreed with the conditions set forth in the staff report. Mr. Gendron asked staff if the number of current message display signs in the area is taken into consideration. Staff member Jason Sanks responded that staff only looked at adjacent properties. Mr. Sanks also stated there was a complaint about full animation graphics being displayed on this sign prior to the hearing. Mr. Sanks explained full animation is not allowed on any sign.

Finding of Fact:

1. As approved, the sign structure in the location proposed and the proposed square footage requires the granting of a variance. The Zoning Administrator must find the following items are present to approve a variance:
 - a) *There are special conditions that apply to the land or building.*
 - b) *The special condition was pre-existing and not created by the property owner.*
 - c) *That strict compliance with the Code would deprive the property of privileges enjoyed by other properties in the same zoning district.*
 - d) *The variance would not constitute a special privilege unavailable to other properties in the vicinity and zoning district of the subject property.*
2. The applicant was approved for a variance to allow the monument sign to be located in the future right-of-way width line. The existing right-of-way is 45-feet north of the center line on Brown Road and 55-feet west of the center line on Gilbert Road. The future right of way width line is located at 65-feet north of the center line along Brown Road and 75-feet west of the centerline along Gilbert Road. The proposed sign location would allow the sign to be located 6-foot from the existing right of way on Gilbert Road (55-foot existing) and 11-feet from the existing right of way (45-foot existing) on Brown Road. This creates a 14-foot encroachment along Gilbert Road and a 9-foot encroachment along Brown Road.

City of Mesa
Zoning Administrator Minutes
July 31, 2012

3. The applicant also requested a variance for the sign area to allow the proposed sign to exceed the maximum allowed in the LC district. The Zoning Ordinance would allow one 80 square-foot, 12-foot high sign along each street frontage. The Zoning Ordinance would also allow copy on both sides of the sign, so that if it were placed properly, the sign could be viewed from both sides and still only be counted as one sign. The applicant is proposing a 12-foot high sign that is angled at approximately 110 degrees with sign copy on each face visible from the street. Due to the design of the proposed sign and rules of measurement for calculating sign area (Zoning Ordinance Section 11-41-5, see below) the entire sign area on both faces would have to be counted. Therefore, the proposed sign area is 146 square-feet, which substantially exceeds code.
4. As justification for the approved variance for the encroachment into the future width line, the applicant has noted: 1) The leading edge of the monument sign, if located out of the future-width-line, would push the leading edge of the sign about 10' into the parking lot. 2) The site was developed with the minimum number of parking spaces and could not lose any spaces to accommodate a sign. 3) The location of the sign in the parking area would push the sign too far away from the street. 4) The signs on the other corners of the intersection are located in close proximity to the street, similar to the proposed location for this site.
5. Justification was not provided for the withdrawn variance to exceed the sign area in the LC District. Staff does not see sufficient justification to support this variance and have recommended a condition of approval that the site comply with code requirements for the height and sign area.
6. In regard to the approved encroachment into the future width line, staff has confirmed with the City of Mesa Engineering Department that the intersection of Gilbert and Brown Roads is not scheduled as a Capital Improvement Project (CIP) to widen the intersection in the next 10 years.
7. The applicant has notified all property owners within 500-feet of the site. To date staff has not received any comments or concerns from neighboring property owners concerning this request.

City of Mesa
Zoning Administrator Minutes
July 31, 2012

- Case No.:** ZA12-009
- Location:** 4025 East Presidio Street
- Subject:** Requesting: 1) a Special Use Permit to allow an auto towing and impound yard; and 2) a Special Use Permit to allow a night watchman's quarters, both in the M-1-PAD zoning district.
- Decision:** Approved with the following conditions:
1. *Compliance with the narrative, Owner's Association Approval Letter, operational plan, and plans provided, except as modified by the conditions below.*
 2. *The Special Use Permit for the night watchman's quarters is limited to 18 months with the option for administrative approval for renewal.*
 3. *A Special Use Permit is required for the expansion of the towing and auto impound yard beyond phase two.*
 4. *Night watchman's quarters shall be provided in a Recreational Vehicle (RV).*
 5. *The RV shall not be located within the building or landscape setbacks.*
 6. *Provision of a dustproof surface within the storage area.*
 7. *Compliance with all requirements of the Development Services Office for the issuance of all necessary permits.*
- Summary:** Bill Pertrie, the applicant, represented this case. Mr. Petrie explained the request is for an RV that would house a night watchman's quarters. The towing yard will be used by the Department of Public Safety (DPS) and will not be a wrecking yard. The hours that customers can retrieve their vehicles are limited to Monday- Friday 8 A.M. to 5 P.M. The applicant explained the only people that will have access to the yard not within that time frame would be the tow truck drivers or DPS officers. Mr. Petrie had a question about a condition in the staff report stating the Special Use Permit (SUP) is limited to one year. Staff member Angelica Guevara explained a one year time frame is customary for a night man watch quarters. The owners can come back for an extension. Mr. Petrie also had a concern with a different condition in the staff report stating the SUP is non-transferrable to another owner or user. He explained enforcing that condition could get complicated since the owner and user are two different people. Mr. Gendron removed that condition and stated the SUP will run with the land. Mr. Petrie also had concerns with a condition limiting the size of the impound yard for Phase 1. Mr. Gendron dismissed the hearing for a recess with the intent the applicant and staff to come to an agreement on the size of Phase 1 and Phase 2. After the recess concluded, staff and the applicant agreed on the following: Phase 1- 80' x 130', Phase 2 (expansion including Phase 1) - 155' x 348'. Ms. Guevara stated the time frame for the SUP can be extended to eighteen months. The applicant was still not in agreeance with this condition. His reasoning being the owner will still have to come in every year to renew the building permit. Staff member Angelica Guevara stated the owner/user can get an administrative renewal of the SUP and does not need to come back to the Zoning Administrator Hearing Officer or the Board of Adjustment, unless an issue with the use arises.

City of Mesa
Zoning Administrator Minutes
July 31, 2012

Finding of Fact:

1. The approved request allows the placement of an impound lot on a parcel currently used for as a construction yard. Use of the site as an impound yard is a change in use, requiring the approval of a Special Use Permit. The site, with the noted approval conditions complies with current development standards.
2. This approved request allows the placement of night watchman's quarters at the site. The placement of an RV for use as a night watchman's quarters requires the approval of a Special Use Permit.
3. Night watchman's quarters were approved in order to provide 24 hour security.
4. The approved impound yard is located within the interior of an existing site zoned LI-PAD at The Commons Industrial Park at Falcon View Unit 2.
5. The parcel is completely surrounded by existing industrial uses on all four sides. Existing screen walls and landscape provide visual and physical separation of the impound yard from the street.
6. The approved impound yard is in conformance with the General Plan designation of Business Park, would result in a minimal increase in impact to surrounding properties, and is compatible with and not detrimental to surrounding properties. To ensure the impound yard is in conformance with the intent of the Zoning Ordinance; stipulations have been added to address the deficiencies.

There being no further business to come before the Zoning Administrator, the hearing adjourned at 2:52 p.m.

The cases for this hearing were digitally recorded and are available upon request.

Respectfully submitted,

Gordon Sheffield
Zoning Administrator/Hearing Officer

Minutes written by Kaelee Wilson, Planning Assistant
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