



BOARD OF ADJUSTMENT MINUTES

September 10, 2002

Boardmembers Present:

David Shuff, Chair
Jared Langkilde, Vice Chair
Webb Crockett
Clark Richter
Greg Hitchens
Roxanne Pierson

Staff Present:

Frank Mizner
Gordon Sheffield
David Nicolella
Krissa Hargis

Boardmember Absent:

Skip Nelson (excused)

Others Present:

Roland Turnbull
Morris Mickelson
Frank Hildenbrandt
Joe Hildenbrandt Sr.
Joe Hildenbrandt Jr.
Councilmember Rex Griswold
Councilmember Claudia Walters
Others

Before adjournment at 6:12 p.m., the following items were considered and recorded on Board of Adjustment Tape # 283

Study Session 4:30 p.m.

Before beginning the meeting, Chairman Shuff welcomed Council members Griswold and Walters. He also welcomed Roxanne Pierson as a new member of the Board.

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

Public Hearing 5:30 p.m.

- A. Consider Minutes from the August 13, 2002 Meeting:

It was moved by Mr. Crockett, and seconded by Mr. Hitchens, that the minutes of the August 13, 2002 Board of Adjustment meeting be approved.

Vote: Passed, 5-0

**Board of Adjustment Meeting
September 10, 2002**

Case No.: BA02-021

Location: 4147 E Alder Ave

Subject: Requesting a variance to allow a building to encroach into the required side yard in the R1-6 zoning district.

Decision: Denied

Summary: Mr. Turnbull revised his request to encroach 5 feet instead of 10 feet into the side yard. He stated that he realizes that he doesn't meet any of the four tests required for a variance and he asked the Board if they could make an exception in his case. Board member Richter commented that the Board is bound by the Arizona Statute to follow the four test criteria. Board member Hitchens commented that the applicant would not be here if he would have applied for a building permit in the first place.

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

Vote: Passed 6-0

Finding of Fact:

- 1.1 There are no special circumstances or conditions applying to this location. The lot size and shape is similar to other lots in the subdivision.
- 1.2 If the strict application of the Zoning Ordinance were applied, the property owner still has other options available that would allow an awning.
- 1.3 If a variance were granted it would constitute a special privilege. The request was denied because other viable options exist.

* * * * *

**Board of Adjustment Meeting
September 10, 2002**

Case No.: BA02-025

Location: 2113 East El Moro Ave

Subject: Requesting variances to allow: 1) encroachments into the required rear and side yards; and 2) a dwelling to exceed the required lot coverage in the R1-7 district.

Decision: Continued to the October 8, 2002 meeting.

Summary: The applicant requested a continuance.

Motion: It was moved by Mr. Richter, seconded by Mr. Hitchens, that this case be continued to the October 8, 2002, meeting.

Vote: Passed 6-0

* * * * *

**Board of Adjustment Meeting
September 10, 2002**

Case No.: BA02-030

Location: 3510 East Adobe Street.

Subject: Requesting; 1) a Special Use Permit for a detached accessory living quarters and, 2) variances to allow the building to encroach into the required rear and side yards in the R1-15 District.

Decision: Denied

Summary: The applicant, Mr. Mickleson, spoke to the board about his concern regarding the process for detached accessory living structures. He stated that on September 3, 2002, he watched the Zoning Administrator approve a detached accessory living quarters in the R1-35-PAD zoning district. (Case ZA02-058) The only difference between this case and his case is that the applicant met all the setback requirements. Mr. Mickleson believes that since the approved accessory living quarters (ALQ) was on a larger lot than his that he is being economically discriminated against. Mr. Sheffield addressed his concern by stating that he has chosen how he wants to use his property. He has chosen to continue to use the detached garage as a workshop, and he has chosen to keep his travel trailer stored on his property. In addition, he is requesting a 10-foot encroachment into his rear yard to accommodate an accessory living quarters. Staff is not in support of his request because Mr. Mickleson has other options available to him to accommodate the accessory living quarters without the need of a variance. Boardmember Hitchens asked Mr. Mickleson about the possible conversion of the detached garage to the accessory living quarters. Mr. Mickleson responded that he would not want the garage to be the accessory living quarters because it is too close to Adobe St. Adobe St. is a busy street that generates a lot of noise. In addition, converting the garage would add significant amount of extra cost. Boardmember Richter stated that he believes that the rear yard variance is a self-imposed hardship and that an accessory structure could easily be constructed without the need of a variance.

Motion: It was moved by Mr. Richter, seconded by Mr. Hitchens, that this case be denied.

Vote: Passed 6-0

Finding of Fact:

- 1.1 The case site is a typical rectangular lot in The Groves subdivision (zoned R1-15). There are no special circumstances that apply to this lot that fit the criteria for a variance.
- 1.2 The conditions cited to support the requested variances are self-imposed. There is sufficient room on the property to create an ALQ without the need for a Special Use Permit or for variances.
- 1.3 The existing detached garage is being used as a workshop. The detached

**Board of Adjustment Meeting
September 10, 2002**

garage could be converted to an ALQ. In addition, a workshop could be built in the proposed ALQ location without requesting variances.

- 1.4 There is an opportunity to create an addition to the residence that would connect the primary residence, the detached garage, and add sufficient room for the ALQ. If this were done there would be no need for a Special Use Permit or for variances.
- 1.5 If a variance were issued, special privilege would be granted to the applicant.

* * * * *

**Board of Adjustment Meeting
September 10, 2002**

Case No.: BA02-032

Location: 118 South Barkley

Subject: Requesting a variance to allow a building to encroach into the required side yard in the R-2 District for the construction of a two-car garage.

Decision: Continued

Summary: The applicant was not present.

Motion: It was moved by Mr. Crockett, seconded by Mr. Hitchens, that this case be continued.

Vote: Passed 6-0

* * * * *

**Board of Adjustment Meeting
September 10, 2002**

Case No.: BA02-033

Location: 4545 E Contessa

Subject: Requesting a variance to allow a building to encroach into the side and rear yards in conjunction with the construction of a duplex in the R-2 District.

Decision: Approved with conditions.

Summary: The applicant, Mr. Frank Hildenbrandt spoke to the Board regarding his case. He stated how he has worked with staff to reduce the variance request as much as possible. He is agreeable with the condition recommended for approval.

Motion: It was moved by Mr. Crockett, seconded by Mr. Richter, that this case be approved subject to:

- The installation of one tree and three shrubs per each 25' of lineal property line, along both the street front and street side yards.

Vote: Passed 6-0

Finding of Fact:

- 1.1 The case site is the last remaining vacant lot in an older subdivision. This particular subdivision was specifically designed for duplex and other lower density multiple residence development. At the time of zoning approval, landscaping setbacks and larger building setbacks were not in place.
- 1.2 The Greenfield Estate subdivision was established in 1978, the subject lot has remained vacant from the start of the development. The proposed development would be similar in scale to the surrounding development.
- 1.3 If the strict application of the Zoning Ordinance were applied it would deprive the owner an opportunity to build a duplex on this site.
- 1.4 The proposed adjustments would allow this site to be developed in a manner comparable with the existing neighborhood. As conditioned, the perimeter landscaping would also assure the site develops in a manner consistent with the upgraded design standards established by the City Council.

* * * * *

**Board of Adjustment Meeting
September 10, 2002**

Case No.: BA02-034

Location: 5303 East Escondido Cir.

Subject: Requesting a variance to allow a building to encroach into the required front yard in conjunction with the construction a single residence in the AG District.

Decision: Denied

Summary:

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

Vote: Passed 6-0

Finding of Fact:

1.1 The case as proposed involves a self-imposed hardship.

* * * * *

Respectfully submitted,

Gordon Sheffield, AICP
Senior Planner

Minutes written by David J. Nicolella, Planning I