

Minutes

**City Council Chambers, Lower Level
March 20, 2012**

Board Members Present:

Garrett McCray, Chair
Nicholas Labadie
Tyler Stradling
Dianne von Borstel
Danette Harris
Cameron Jones

Board Members Absent:

Greg Hitchens - excused

Others Present:

Taylor Candland
Greg Horne
Others

Staff Present:

Gordon Sheffield
Angelica Guevara
Mia Lozano-Helland
Lesley Davis
Tom Ellsworth

The study session began at 4:40 p.m. The Public Hearing meeting began at 5:30 p.m. Before adjournment at 6:25 p.m., the following items were considered and recorded.

Study Session began at 4:40 p.m.

A. Zoning Administrator's Report:

1. Chicago Cubs Sign Plan: Zoning Administrator, Gordon Sheffield, briefly detailed the proposed signs that will be reviewed for the Cubs Stadium. He also explained that there had been previous approvals for the Waveyard project. Comments from the Board included the opening date and remaining processes.

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

Public Hearing 5:30 p.m.

- A. Consider Minutes from the February 14, 2012 Meeting a motion was made to approve the minutes by Board member Labadie and seconded by Board member Jones. Vote: Passed 6-0-1 (Hitchens - absent)
- B. Consent Agenda a motion to approve the consent agenda as read was made by Board member Jones and seconded by Board member von Borstel. Vote: Passed 6-0-1 (Hitchens - absent)

**Board of Adjustment Meeting
March 20, 2012**

Case No.: BA11-054

Location: 3709 East Adobe

Subject: Requesting a Variance to allow an addition to encroach into the required side yard in the RS-9 zoning district. (PLN2011-00316) **Continued from the December 12, 2011 meeting.**

Decision: Continued to the April 10, 2012 meeting

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

Motion: It was moved by Board member Jones seconded by Board member von Borstel to continue case BA11-054 to the April 10, 2012 meeting.

Vote: Passed 6-0-1 (Hitchens - absent)

**Board of Adjustment Meeting
March 20, 2012**

Case No.: BA12-011

Location: 3639 East Pomegranate Street

Subject: Requesting a Variance to allow a detached accessory structure to exceed the maximum height permitted in the RS-35 zoning district. (PLN2012-00043)

Decision: 3639 East Pomegranate Street

Summary: Roy Carrasco represented the case and provided a summary of the request.

Board member Labadie asked Mr. Carrasco for clarification of the turning radius issue that would not allow the garage to be moved forward.

Chair McCray pointed out to Mr. Carrasco that there were other possibilities, but based on the current design he was not inclined to support the request.

Greg Horne, 3658 East Palm Street, stated that he was not opposed to an RV garage, but is opposed to the proximity to his property. He is concerned with a massive garage being built that will be extremely visible from the adjacent properties. He stated that he would like to see the owner do more to soften the look of the huge wall with additional landscaping on the east wall.

Lesley Davis provided the staff report and recommendation.

Board member Labadie stated that there were too many other options for him to justify the current location of the RV garage.

Board member Jones stated that the lot was very large and had other options therefore he could not approve a variance.

Chair McCray provided a summary of the requirements needed to approve the variance. He also cited the multiple options for the very large lot and asked staff for direction on modifying the site plan.

Mr. Sheffield stated that the Board could continue the case in order to keep the applicant from incurring any additional fees. The applicant could then work with staff on modifications. However, the likely result would probably be a reduced degree of variance or a complying plan. The staff recommendation to deny the request would not likely change.

Mr. Carrasco commented that while a continuance was a good idea, the RV garage size would not change and he could not lower the height.

Board member Stradling stated that he would not support the variance as presented, but was open to a compromise.

Board member Labadie commented that he would be looking for a hardship in any modification to the current design.

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Motion: It was moved by Board member Labadie seconded by Board member Harris to deny case BA12-011.

Vote: Passed 4-2-1 (McCray & von Borstel - nay, Hitchens - absent)

Findings:

- 1.1** The variance requested would have allowed a detached accessory structure to exceed the maximum height permitted. The proposed structure would encroach 15 feet into the required 30-foot rear yard setback and have a height of 19'-5". The proposed structure would have exceeded the maximum height permitted for a detached accessory building that encroached into the required rear yard setback (15 feet) by 4'-5".
- 1.2** The subject parcel is 43,978 sf in area and zoned RS-35, requiring a minimum lot size of 35,000 sf. The RS-35 Zoning District allows 35 percent lot coverage and detached accessory buildings with roof area of up to 50 percent the roof area of the dwelling. Consistent with the Zoning Ordinance, the proposed detached structure would result in 18.2 percent lot coverage and would have had a roof area of 46 percent of the roof area of the dwelling.
- 1.3** The subject parcel is of similar size (43,978 s.f.) as the other parcels in the subdivision and exceeds the minimum required lot size in the RS-35 zoning district (35,000 s.f.). Based on the applicant's statement, the justification provided primarily related to self-imposed hardship, i.e., provision of enclosed storage for an RV. Consequently, the applicant did not provide sufficient justification related to *special or unique conditions of the land* that supported the requested variance.
- 1.4** Strict compliance with Code requirements would not have deprived the property of privileges enjoyed by other properties, as the size of the parcel and the location of buildings on the site provides sufficient space for alternative options that would allow construction of the RV garage without the need for a variance. Further, the proposed depth of the RV garage (55 feet), which is 10 feet deeper than the legal RV length in Arizona of 45 feet (ARS, Article 18, Section 28-1095).
- 1.5** The justification noted by the applicant referenced the existence of other detached accessory buildings in the vicinity, some of which have been granted variances for height. A search for variance requests within the perimeter of the subdivision yielded one approved variance for a detached accessory structure with a 17-foot height (ZA04-078), justified by the unique condition of preserving citrus on the property. Despite the fact that other property owners in the neighborhood have constructed similar structures and one received a variance for height did not provide justification as all requests are reviewed on their own merit.

**Board of Adjustment Meeting
March 20, 2012**

Case No.: BA12-012

Location: 8261 East Euclid

Subject: Requesting a Variance to allow an addition to encroach into the required rear yard in the RS-6-PAD-AS zoning district. (PLN2012-00052)

Decision: Approved with conditions

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

Motion: It was moved by Board member Jones, seconded by Board member von Borstel to approve case BA12-012 with the following conditions:

1. Compliance with the site plan submitted.

2. Compliance with all requirements of the Development and Sustainability Department in the issuance of building permits.

Vote: Passed 6-0-1 (Hitchens– absent)

Findings:

- 1.1** The approved variance allows a 27 square-foot portion of a garage addition within the rear yard setback of the subject parcel. The garage will encroach 9-feet, 9-inches into the required 25 foot rear yard setback. This leaves a setback of 10-feet, 2-inches along the south property line.
- 1.2** The site is lot 744 of the Fountain of the Sun Parcel 4 subdivision. The PAD overlay for this subdivision established a front setback of 20-feet, rear of 25-feet and side yard setbacks at five and ten-feet. This subdivision was developed in the county prior to annexation.
- 1.3** The property is a cul-de-sac lot that backs up to a golf course. It is a five sided lot with established rear yard setbacks along both the west and south property lines. The house is placed at an angle facing the street, placing the side of the house next the south property line, which has a 25-foot rear setback. The garage addition is sited adjacent to the existing garage, but is setback somewhat, which increases the dimension of the encroachment. The applicant stated that the reason for the larger encroachment is so they could utilize the existing ridge-line of the home to make the garage look like it is a natural extension of the home rather than an awkward addition.
- 1.4** Due to the shape of the existing lot and the placement of the home, the south property line functions more like a side yard than a rear yard. It was reasonable to consider an encroachment into that setback for the garage addition. Also, it is important to note, that a 10-foot side yard setback is being maintained on both sides of the home, which provides rear yard access.
- 1.5** Strict compliance with the Code requiring the property owner to adhere to the 25-foot rear setback and would have deprived the property of privileges enjoyed by other properties in the same zoning district. This variance does not constitute a special privilege unavailable to other properties in the vicinity and zoning district of the subject property.

**Board of Adjustment Meeting
March 20, 2012**

- Case No.:** BA12-013
- Location:** 2160 North Power Road
- Subject:** Requesting a Special Use Permit to allow a commercial communication tower to exceed the maximum height allowed in the RS-9 zoning district. (PLN2012-00055)
- Decision:** Approved with conditions
- Summary:** This case was on the consent agenda and not discussed on an individual basis.
- Motion:** It was moved by Board member Jones, seconded by Board member von Borstel to approve case BA12-013 with the following conditions:
1. *Compliance with the site plan submitted except as modified by the conditions below.*
 2. *The commercial communication towers shall utilize a Cross design with a maximum height of (sixty) 60-feet.*
 3. *The proposed exterior material on the new mono-crosses shall match the existing mono-cross.*
 4. *The main pole of the mono-crosses shall be the same diameter throughout the pole.*
 5. *All antennas, mounting hardware, and other equipment near the antennas shall be painted to match the color of the mono cross.*
 6. *The antennas shall not exceed 96-inches long x 11.8-inches wide x 6-inches deep.*
 7. *The wood slats on the gate screening the ground mounted equipment shall be replaced with solid metal gates painted to match the color of the screen wall.*
 8. *The operator of the mono-crosses shall respond to and complete all identified maintenance and repair of the facility within 30-days of receiving written notice of the problem.*
 9. *Provide a permanent, weather-proof identification sign, approximately 16-inches by 32-inches in size on the gate of the fence identifying the facility operator(s), operator's address, and 24-hour telephone number for reaching the operator or an agent authorized to provide 24/7 response to emergency situations.*
 10. *No later than 90 days from the date the use is discontinued or the cessation of operations, the owner of the abandoned tower or the owner of the property on which the facilities are sited shall remove all equipment and improvements associated with the use and shall restore the site to its original condition as shown on the plans submitted with the original approved application. The owner or his agent shall provide written verification of the removal of the wireless communications facility within 30 days of the date the removal is completed*
 11. *Compliance with all requirements of the Development and Sustainability Division with regard to the issuance of building permits*
 12. *Maintenance of the facility shall conform to the requirements of section 11-35-5-1.*
- Vote:** Passed 6-0-1 (Hitchens - absent)

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Findings:

- 1.1** The Special Use Permit (SUP) allows the placement of two 60-foot high mono-crosses approximately 45-feet to the northwest and southwest of the existing 65-foot tall mono-cross. The locations were selected and centered on the building's west elevation and to each side of the existing cross tower.
- 1.2** The applicant notified all property owners within a 500-foot radius of the site and to date, no comments or concerns were received from neighbors.
- 1.3** The existing site has an existing mono-cross which was approved in 2006. The original request from the applicant was for the construction of a three-legged bell tower. The neighbors were not supportive of a three-legged bell tower because it would block their views. The applicant received approval for the mono-cross as requested by the neighbors.
- 1.4** The site is identified as P482-Bolens Dream and each of the Commercial Communication Towers will be located within a 10-foot x 10-foot lease area. The associated ground equipment will be located within the existing screened equipment area located on the northwest side of the building.
- 1.5** Each mono-cross is 60-feet tall at the highest point and resembles a cross to match the existing taller cross tower on the site. Each mono-cross can contain three 8-foot long antennas. Three antennas are needed at this time by AT&T to improve their capacity of wireless phone calls in the area, incorporate the new 4G technology, and increase the data capacity and speed. The additional antennas on the third mono-cross are not needed at this time, but are available for co-location by another carrier or for an additional future upgrade by AT&T.
- 1.6** The CCT are 118' 7" from the right-of-way of Delmon to the north, approximately 300' from the right-of-way of Power Road to the east, 290' from the south property line, and 355' from the west property line. There were no concerns with the location of the communication towers or its proximity to the property lines as they exceed the distances required from the right-of-way and adjacent property lines.
- 1.7** The materials used to conceal the antennas will minimize the visibility and will ensure the cross towers match the existing tower. As a result, the mono-crosses will be compatible with, and not detrimental to, adjacent properties or the neighborhood in general.

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**Board of Adjustment Meeting
March 20, 2012**

Case No.: BA12-014

Location: 1740 South Country Club Drive

Subject: Requesting a Special Use Permit to modify an existing comprehensive sign plan in the GC zoning district. (PLN2012-00075)

Decision: Denied

Summary: Tom Atkinson, Sandstorm Signs, represented the case and stated that the larger sign size was needed to increase visibility and sales for Home Depot.

Board member Jones why this location needed such large letters compared to the other stores.

Mr. Atkinson stated that this particular store only has the frontage sign and did not feel that the additional sign size would cause a problem.

Angelica Guevara provided the staff report and that the sign was not justified due to visibility challenges and allowing the significantly large sign would set precedence.

Board member Stradling asked about a comment the applicant made regarding an 80% requirement. Mr. Sheffield provided an explanation and corrected the comment.

Board member Labadie stated he could not support the request citing that the large building was very visible in itself.

Board member Jones agreed and stated that the sign was too large for him to support.

Board member Harris was also in agreement that the sign was too large and would not support such a significant increase.

Motion: It was moved by Board member Labadie, seconded by Board member Jones to deny case BA12-014.

Vote: Passed 6-0-1 (Hitchens - absent)

Findings:

- 1.1** The existing primary identification sign is limited to 290 sq.ft. It appears to be plainly visible from Country Club Drive at its existing scale.
- 1.2** The applicant had proposed to increase the maximum sign area for this attached sign to 417 sq.ft. based on an increased letter height of up to 5-feet.
- 1.3** Because the existing sign is plainly visible, and appears to be in proportion to the scale of the existing entry canopy, additional sign area did not appear to be needed.

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C. Other Business:

None

Respectfully submitted,

Gordon Sheffield, AICP
Zoning Administrator

Minutes written by Mia Lozano, Planning Assistant

G: Board of Adjustment/Minutes/2012/March 2012