



BOARD OF ADJUSTMENT MINUTES

August 13, 2002

Boardmembers Present:

David Shuff, Chair
Jared Langkilde, Vice Chair
Webb Crockett
Skip Nelson
Greg Hitchens

Staff Present:

Gordon Sheffield
David Nicolella
Krissa Hargis
Joe Padilla

Boardmembers Absent:

Clark Richter (excused)

Others Present:

Robert Power	Larry Clouse
Thomas Harney	Joyce Clouse
Susan Harney	Brian Marshall
Morris Mickelson	Paul Bleier
Mark Ward	Others

Before adjournment at 7:32 p.m., the following items were considered and recorded on Board of Adjustment Tape # 281 & #282.

Study Session 4:30 p.m.

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

Public Hearing 5:30 p.m.

- A. Consider Minutes from the July 9, 2002 Meeting:

It was moved by Mr. Crockett, and seconded by Mr. Nelson, that the minutes of the July 9, 2002 Board of Adjustment meeting be approved.

- B. Election of Officers:

Motion: It was moved by Mr. Crockett, seconded by Mr. Nelson, that Mr. David Shuff become the new chair and Mr. Langkilde become the new vice chair.

Vote: Passed, 5-0

**Board of Adjustment Meeting
August 13, 2002**

Case No.: BA02-018

Location: 540 N Garrison

Subject: Requesting a variance to allow a patio enclosure to encroach into the required rear yard in the R1-6 district.

Decision: Withdrawn

Summary: Staff and the applicant reached an agreement to use a UBC Chapter 31 enclosure on the patio. The applicant withdrew the case.

Motion: It was moved by Mr. Crocket, seconded by Mr. Langkilde that this case be withdrawn.

Vote: Passed 5-0

Finding of Fact: N/A

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**Board of Adjustment Meeting
August 13, 2002**

Case No.: BA02-021

Location: 4147 E Alder Ave

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

Decision: Continued for 30 days.

Summary: The applicant, Mr. Turnbull, stated that he cannot fit the existing structure anywhere else on his property. The only choices are to remove it or get approval of a variance to keep it. Mr. Hitchens asked about placing the building elsewhere on the site. Mr. Turnbull responded that there was no room on the site. Mr. Sheffield indicated the existing structure could be modified to fit on the site without requesting a variance.

Motion: It was moved by Mr. Crockett, seconded by Mr. Nelson that this case be continued for 30 days.

Vote: Passed 5-0

Finding of Fact: N/A

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**Board of Adjustment Meeting
August 13, 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 for 30 days.

Summary: The applicant spoke with Mr. Sheffield after the study session stating that because there is five Board members present he would like to continue his case until seven Board members are present.

Motion: It was moved by Mr. Crockett, seconded by Mr. Langkilde that this case be continued for 30 days.

Vote: Passed 5-0

Finding of Fact: N/A

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**Board of Adjustment Meeting
August 13, 2002**

Case No.: BA02-027

Location: 8050 East Juanita Ave

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

Decision: Approval of a 3-foot encroachment, at its farthest point, into the rear setback.

Summary: The applicant, Mr. Harney stated that because there is a sewer line running from the back of his house into an abandoned alley, there are limits as to where he could build a pool in the future. He built his patio according to where he believes the new pool would be located. He did not know that he built the patio 12 feet into the rear setback. Because the structure already exists, he asked the Board to grant a variance at their discretion, whether 2 feet, 5 feet or 7 feet. Mr. Crockett asked Mr. Sheffield to explain the situation. Mr. Sheffield stated that the request for a variance is self imposed and that there are other options for the applicant to build a new pool and patio inside the setbacks without building over the sewer line. Mr. Crockett asked Mr. Sheffield if there is any flexibility. Mr. Sheffield responded that it is somewhat unusual to have a Public Utility Easement extend through the middle of a rear yard. He suggested a 3-foot encroachment that would allow some of the relief requested by the applicant. Mr. Harney agreed.

Motion: It was moved by Mr. Hitchens seconded by Mr. Crockett, that this case be approved with a 3-foot encroachment, at its farthest point, into the rear setback.

Vote: Passed 5-0

Finding of Fact:

- 1.1 The case site is a conventional rectangular, single residence lot. In fact, it exceeds minimum standards for width, depth and area.
- 1.2 The applicant has worked with staff to create a revised proposal that reduces the garage to comply with code.
- 1.3 The location of the existing sewer line created a condition that made it difficult to install an in ground swimming pool.
- 1.4 The applicant originally proposed a 12-foot encroachment into the rear setback, the Board reached a compromise with a 3-foot setback, at its farthest point.

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**Board of Adjustment Meeting
August 13, 2002**

- Case No.: BA02-028
- Location: 2235 N Gentry
- Subject: Requesting a variance to allow a second story addition to encroach into the required rear yard in the R1-9 district.
- Decision: Approval of a second story addition to encroach into the required rear yard in the R1-9 district.
- Summary: The applicant, Mr. Powers, began his presentation by giving a handout to the Board members and staff. He then explained that he would like to create an "Arizona room" on the second story of his home by enclosing an existing covered patio/deck. The discrepancy between staff and the applicant is over the rear setback. There is a lot directly behind the subject property that is a key lot (applicant's rear yard to neighbor's side yard). Mr. Powers believes that his back yard, for all practical purposes, is his side yard, and his side yard, on the east side of the home, is his back yard. If this were the case the Arizona room enclosure would meet the required setbacks. Mr. Powers noted that the developer made changes at the time the subdivision was created causing the lot line to be placed as if the house was to front on East Leland, but instead the developer fronted the house on North Gentry. Mr. Hitchens commented that if the patio were enclosed it would create more privacy for the applicant. Mr. Nelson commented that if a variance were granted it would create special privileges and he is in support of staff's position. Mr. Crockett asked Mr. Sheffield if a variance could be granted to allow a second story patio to be enclosed under Chapter 31 of the 1994 Uniform Building Code (UBC). Mr. Sheffield responded that the Chapter 31 enclosure only applies to the first floor and the Board couldn't amend the UBC. Mr. Crockett then added that he believes that some variance should be granted because of the key lot situation and made a motion to approve the request.
- Motion: It was moved by Mr. Crockett, seconded by Mr. Hitchens, that this case
be approved as submitted.
- Vote: Passed 4-1 (Nelson voting nay)
- Finding of Fact:
- 1.1. The case site exceeds the minimum depth and width requirements for a lot in the R1-9 Zoning District. The rectangular shape of the parcel is typical of lots in this subdivision (Citrus Del Ray), as are the depth and the width of the lot.
 - 1.2. Chapter 31 of the 1994 Uniform Building Code, with amendments for the City of Mesa, governs enclosed patios. Basically, the amendments allow an enclosure to be defined as "open" if 65% of the longest wall and an adjoining wall use screen mesh or glass windows as the enclosure, and knee walls do not exceed 3.5' high. However, the exception is limited to a height of 12'. Any open balcony or patio space above that line would not qualify for the enclosure exception.

**Board of Adjustment Meeting
August 13, 2002**

- 1.3. Because the case site is a corner lot adjacent to a "key" lot, the board felt that this creates enough of a special circumstance to grant a variance.

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Case No.: BA02-029

Location: 6200 – 6400 Blocks of East Test Drive

Subject: Requesting a special use permit for a comprehensive sign plan for a developing automotive sales center in the M-1 PAD district.

Decision: Approved with conditions.

Summary: Paul Bleier addressed the Board stating, "The balance of the sign package is agreeable, the only point of contention is the freeway-oriented signs." Mr. Bleier then asked if the Board would approve four 12-foot high freeway oriented signs instead of the 24-foot high request. Boardmember Hitchens asked Mr. Sheffield for a staff response. Mr. Sheffield responded, "If these signs are approved, then every property owner that fronts the freeway would demand the same. In addition, of the seven sign types they have submitted, five of them exceed the normal standard listed in the Sign Ordinance." Boardmember Hitchens said he believes that the Planned Area Development document has no bearing on the case and that he could not support 12-foot high freeway-oriented signs because, from a practical standpoint, the signs would not be visible from the freeway. Mark Ward from DMB stated that 12-foot high freeway signs are important from a marketing point of view and asked if the Board would approve 1 or 2 freeway signs at 12 feet high. Boardmember Nelson indicated that staff has given the applicant larger than normal provisions and the City Council's direction is for no freeway signs. Boardmember Langkilde said that because the land situation is unique that freeway signs would serve a great deal. Boardmember Shuff asked if the Board could approve part of the Comprehensive Sign Plan and come back and revisit the freeway sign discussion. Mr. Sheffield commented that because of the way the case was advertised it either has to be approved or denied as a whole. Boardmember Nelson made a motion that the Comprehensive Sign Plan be approved as presented in the staff report but with an additional condition that the time limit for resubmittal of a new application be waived. This means that the applicant can resubmit an application at any time, without having to wait the normal one-year period.

Motion: It was moved by Mr. Nelson, seconded by Mr. Hitchens, that this case be approved conditioned upon:

1. Compliance with the comprehensive sign plan (version 2, dated 8/2002) as submitted, except as modified by the conditions listed below;
2. Detached signs shall be limited to one 14' high monument sign adjacent to Superstition Springs Boulevard, and 8' high monument signs adjacent to Test Drive or Driver's Way, and erected as described in the comprehensive sign plan narrative. There shall be no detached signage oriented towards the Superstition Freeway (US Highway 60).
3. Waiver of the one year time limit for refiling an application.

**Board of Adjustment Meeting
August 13, 2002**

Vote: Passed 4-0-1 (Crockett abstaining)

Finding of Fact:

- 1.1 The case site is a 32-acre parcel with limited street frontage. It is located at the southwest corner of Superstition Springs Boulevard and the Superstition Freeway. Both the street and the freeway are elevated above the natural grade of the development site.
- 1.2 The Comprehensive Sign Plan proposed identifies seven different sign types, of which five exceed Sign Ordinance maximums. A finding of unique conditions related to the development, the use, or the sign plan was required.
- 1.3 Four signs are proposed that would be oriented towards the freeway, and would exceed the maximum sign height of 12'. Because of the limited street frontage on Superstition Springs Boulevard, the combination of these signs and the street entry sign would exceed the maximum aggregate sign height for detached signs by 98'.
- 1.4 Past decisions of the Board of Adjustment have denied freeway-oriented signs that exceed the maximum permitted height allowed in the zoning district. Past conversations with the City Council during Council study sessions have confirmed this policy. If they had been approved, the freeway-oriented signs on this development site would have conferred special advantage to this site over other development sites along the Superstition Freeway.
- 1.5 The site does have limited street frontage for a 32-acre commercial project. Therefore, it did not inherently have the ability to use multiple detached signs to identify various commercial users within the development. The use of a slightly higher than normal detached sign (14' instead of 12') at the entry will help the consumer identify the range of brands and uses anticipated to occupy the site.
- 1.6 New car dealerships offer a wide range of services and products to the consumer. Appropriate identification and visible directional signs can aid the consumer in finding the appropriate location on the dealership site for the desired service or commodity. Because of the outdoor nature of the use, additional attached signage is approved to direct consumers to the appropriate location. The additional directional signage needed is over and above the typical needs of a retail use.
- 1.7 Past decisions of the Board of Adjustment have recognized the need for the identification of commercial uses from the freeway by the use of attached signs. The limited access nature of a freeway creates the need for a second access road, and provides visibility of the building from both front and rear of the site. Additional attached sign area is approved to accommodate signs of sufficient size to be seen from the freeway, and from the front of the site.

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**Board of Adjustment Meeting
August 13, 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: Continued for 30 days.

Summary: The applicant, Mr. Mickelson, spoke to address the other options staff suggested to him in the staff report. The problem with converting the existing garage into accessory living quarters is that he would have to cut through the concrete floor to install plumbing. In addition, he feels that the proximity to the street is too close. The second option of attaching the accessory living quarter to the house and keeping it in the setbacks would create a structure that is too narrow. Mr. Hitchens stated that he could not support the variance as shown because of the degree. He suggested that the applicant work with staff to find another option that would reduce the amount of encroachment into the setback.

Motion: It was moved by Mr. Hitchens, seconded by Mr. Crocket, that this case be continued for 30 days.

Vote: Passed 5-0

Finding of Fact: N/A

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**Board of Adjustment Meeting
August 13, 2002**

Case No.: BA02-031

Location: 2415 N Terrace Circle.

Subject: Requesting a variance to allow a building to encroach into the side yard in conjunction with the expansion of a school in the R1-43 District.

Decision: Approved with conditions.

Summary: The applicant is proposing to expand an existing Montessori School. The proposed new addition totals 1532 sq. ft., and includes converting the attached two-car garage into classroom space. An additional seven parking spaces, two in the front and five in the rear, will be added to accommodate the expansion. The existing gravel driveway on the east end of the property will be paved and additional landscaping will be added to the North side of the addition.

Motion: It was moved by Mr. Crocket, seconded by Mr. Hitchens that this case be approved conditioned upon:

1. No more than ten preschool students being present on-site at one time.
2. All required parking stalls to be installed within the buildable area.

Vote: Passed 5-0

Finding of Fact:

- 1.1 The case site is located on a triangular shaped, 1.76-acre parcel at the northeast corner of Lehi Road and Terrace. The use of the property was converted from a single residence to an elementary school last year. Before converting the residence to a school, a variance was granted by the Zoning Administrator to delete a required solid screen wall along the north and east property lines.
- 1.2 The applicant has requested a 1532 sq.ft. addition. The change to the existing conditions requires the entire site to be brought into conformance to current standards, unless a variance is granted.
- 1.3 The City Council has recently adopted new Design Guidelines and Landscaping and Screening standards. The adoption of the new standards changed the side yard setback along the north property line from 10' to 20', and occurred after a small addition had already been added to the north side that is 15' from the north property line. The second addition being requested would require the first addition to be removed unless a variance was granted to allow it to remain.
- 1.4 The second addition will remain within the buildable area established by the new standards.
- 1.5 Other than the open fence that was the subject of the previous variance case, all other aspects of this case will be in conformance to the current requirements. Special circumstances exist because of the adoption of the new standards after the first addition had been completed.

**Board of Adjustment Meeting
August 13, 2002**

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Respectfully submitted,

Gordon Sheffield, AICP
Senior Planner

Minutes written by David J. Nicolella, Planner I
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