

# Board of Adjustment Minutes



## City Council Chambers, Lower Level January 13, 2004

### Board members Present:

Jared Langkilde, Chair	David Shuff
Roxanne Pierson, Vice Chair	Webb Crockett
Greg Lambright	Mike Clement
Dianne von Borstel	

### Board members Absent:

(none)

### Staff Present:

John Gendron  
Gordon Sheffield  
David Nicolella  
Krissa Hargis  
Jim Smith

### Others Present:

Miguel Galindo	Linda Real
Donovan Evan	Manuel Arguello
Jarl Knag	Michelle Knag
Mike Palomino	Kristjan Sigurdsson
Thomas Kokaliaries	Michelle Lorane
Others	

The study session began at 4:35 p.m. The Public Hearing meeting began at 5:45 p.m. Before adjournment at 7:30 p.m., the following items were considered and recorded on Board of Adjustment Tape # 298.

### Study Session 4:30 p.m.

- A. The study session began at 4:35 p.m. The items scheduled for the Board's Public Hearing were discussed.
- B. Assistant City Attorney Jim Smith and Senior Planner Gordon Sheffield spoke to the Board about the adopted by-laws of the Board of Adjustment, including the section regarding the reconsideration of cases. The Board asked Mr. Smith to update the by-laws with regard to changes made to the Zoning Ordinance since the by-laws were adopted in 1994, and to prepare two or three options regarding the reconsideration of decided cases. The updates and reconsideration options would then be considered as part of the Board's February public hearing agenda.

### Public Hearing 5:30 p.m.

- A. Consider Minutes from the December 9, 2003 Meeting:  
It was moved by Boardmember Crockett and seconded by Boardmember Clement, that the minutes of the December 9, 2003 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 Shuff, seconded by Boardmember von Borstel. **Vote:** Passed 7-0
- C. Public Hearing Agenda
  1. The Board heard from Ms. Linda Real, 653 E Gable, who requested the Board rehear her request for a variance (case BA03-049). It was moved by Chairman Langkilde, seconded by Mr. Lambright, that the request be reconsidered after the Board considers new by-laws regarding the reconsideration of requests (Note: Consideration of amended by-laws is scheduled for February 10, 2004). **Vote:** Passed 4 - 3 (Clement, Crockett and Shuff voting nay).

**Board of Adjustment Meeting  
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**Case No.:** BA03-019  
**Location:** 5237 E. McDowell Rd.  
**Subject:** Requesting a modification of the Apache Wells Planned Area Development (PAD) to allow the development of a employee parking lot and maintenance yard in conjunction with an existing golf course in the R1-7-PAD-DMP-AS district.  
**Decision:** Continued for 30 days  
**Summary:** This case was on the Consent Agenda, and was not heard on an individual basis. The applicant requested the continuance to develop a new site plan for an employee parking lot.  
**Motion:** It was moved by Mr. Shuff, seconded by Ms. von Borstel, that this case be continued to the Board's February 10, 2004 meeting.  
**Vote:** Passed 7-0  
**Finding of Fact:** N/A

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**Board of Adjustment Meeting  
January 13, 2004**

**Case No.:** BA03-044  
**Location:** 1959 East Main Street  
**Subject:** Requesting a Development Incentive Permit (DIP) to allow for the development of an automotive dealership in the C-3 district.  
**Decision:** Continued for 30 days.  
**Summary:** This case was on the Consent Agenda, and was not heard on an individual basis. The applicant was not present at the hearing. During the study session, Boardmember Lambright requested additional information and a recommendation from the Design Review Board before making a decision on this request  
  
**Motion:** It was moved by Mr. Shuff, seconded by Ms. von Borstel, that this case be continued to the Board's February 10, 2004 meeting.  
  
**Vote:** Passed 7-0  
  
**Finding of Fact:** N/A

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**Board of Adjustment Meeting  
January 13, 2004**

**Case No.:** BA03-054  
**Location:** 549 East Garnet Avenue  
**Subject:** Requesting a variance to allow a structure to encroach into the front yard setback in the R1-6 district.

**Decision:** Continued for 30 days

**Summary:** Through an interpreter, the applicant, Mr. Miguel Galindo, explained that his home was setback 30' from the back of the sidewalk, and the carport cover he had built on the front of the house came to within 14' of the sidewalk. He would like to keep the carport if possible to shade his cars from the sun. He noted that the existing carport to the side of his house was only 17' wide, which made it too narrow to park two cars side-by-side. He indicated he was willing to modify the structure, but would like to keep the 16' width if possible.

Mr. Sheffield explained that the Zoning Ordinance would allow small 3' encroachments into the front yard for porte cocheres and similar projections, provided the projection was 10' wide or less. Boardmember Lambright indicated that he would support a redesign of the project to allow a 3' encroachment that was 16' wide. Mr. Sheffield suggested the Board continue the case to allow staff to work with the applicant to redesign the site plan along those lines.

**Motion:** It was moved by Mr. Crockett, seconded by Ms. von Borstel, that this case be continued to the Board's February 10, 2004 meeting

**Vote:** Passed 7-0

**Finding of Fact:** The Board would like more information regarding the actual impact of the proposed compromise.

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**Board of Adjustment Meeting  
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**Case No.:** BA03-056  
**Location:** 606 South Esquire Way  
**Subject:** Requesting a variance to allow a structure to encroach into the required side yard in the R1-9 district.  
**Decision:** Approved with Conditions  
**Summary:** This case was on the Consent Agenda, so it was not heard individually. The case involved the construction of a detached garage that would encroach into a required side yard in the Esquire Estates neighborhood.

**Motion:** It was moved by Mr. Shuff, seconded by Ms. von Borstel that this case be approved, conditioned upon the following:

1. Compliance with the site plan and elevations submitted:
2. Compliance with all requirements of the Building Safety Division.

**Vote:** Passed 7-0

**Finding of Fact:**

- 1.1 This case site is part of a subdivision that was approved under Maricopa County jurisdiction and annexed by the City of Mesa in 1990.
- 1.2 Because of the unique circumstances related to the extensive irrigation valve and the mature pecan tree, granting a variance would not be in opposition to the Zoning Ordinance.
- 1.3 If strict compliance of the Zoning Ordinance were applied, the applicant would not be allowed to construct a 1288 sq. ft. structure, the size would have to be reduced.
- 1.4 Because of the uniqueness of this case site, granting a variance would not constitute a grant of special privilege.

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**Board of Adjustment Meeting  
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**Case No.:** BA03-059  
**Location:** 1149 East Southern Avenue  
**Subject:** Requesting a Special Use Permit to allow an electronic variable message sign to display a static message for a period of less than one hour.  
**Decision:** Continued for 30 days  
**Summary:** The applicant requested an additional continuance to allow time for a sign ordinance revision to be considered by the City Council. The request for continuance was on the Consent Agenda, and it was not discussed as an individual case.  
**Motion:** It was moved by Mr. Shuff, seconded by Ms. von Borstel, that this case be continued to the Board's February 10, 2004 meeting.  
**Vote:** Passed 7-0  
**Finding of Fact:** N/A

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**Board of Adjustment Meeting  
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**Case No.:** BA04-001  
**Location:** 9925 E. Baseline Rd.  
**Subject:** Requesting a Special Use Permit for a Comprehensive Sign Plan for the development of the Augusta Ranch Marketplace.  
**Decision:** Continued for 30 days  
**Summary:** The applicant requested a continuance for 30 days. The requested continuance was on the Consent Agenda, and was not heard individually.  
**Motion:** It was moved by Mr. Shuff, seconded by Ms. von Borstel, that this case be continued to the February 10, 2004 meeting.  
**Vote:** Passed 7-0  
**Finding of Fact:** N/A

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**Board of Adjustment Meeting  
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**Case No.:** BA04-002  
**Location:** 1806 E. 1st Place.  
**Subject:** Requesting a variance to allow a structure to encroach into the side and rear yards and to exceed the maximum allowable roof coverage in the R1-6 district.  
**Decision:** Continued for 30 days.  
**Summary:** The applicants requested a 30-day continuance to redesign their proposal. The requested continuance was on the Consent Agenda, so it was not discussed individually.

**Motion:** It was moved by Mr. Shuff, seconded by Ms. von Borstel, that this case be continued to the February 10, 2004 meeting.

**Vote:** Passed 7-0

**Finding of Fact:** N/A

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**Board of Adjustment Meeting  
January 13, 2004**

**Case No.:** BA04-003  
**Location:** 971 S. Grand  
**Subject:** Requesting a variance to allow a structure to encroach into the side yard setback in the R1-6 district.  
**Decision:** Approved with Conditions  
**Summary:** This case was on the Consent Agenda, so it was not discussed individually. It involved the encroachment a detached garage into a required side yard on a lot that was 50' wide.

**Motion:** It was moved by Mr. Shuff, seconded by Ms. von Borstel, that this case be approved, conditioned upon the following:

1. Compliance with the site plan and elevations submitted, except as modified by the condition listed below;
2. Compliance with all requirements of the Building Safety Division for issuance of a building permit.

**Vote:** Passed 7-0

**Finding of Fact:**

- 1.1 The case site is a 51' wide lot, which was subdivided in 1947 as part of "Stewart's South Mesa Addition". The recording of this subdivision predates City of Mesa zoning ordinance requirements that residential lots have a minimum width of 60'.
- 1.2 The existing lot has a residence placed about 18' from the south property line. If a garage were located to the side of the residence, as is typical for R1-6 lots, the garage would encroach into the required side yard.
- 1.3 Special conditions exist because of the narrow width of the lot. Current setbacks are based on a 60' wide lot. Permitting a 7' encroachment into the required side yard will allow development that is commensurate with typical garage placement in the R1-6 district.

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**Board of Adjustment Meeting  
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**Case No.:** BA04-004  
**Location:** 3020 E. Main Street. Space G-24  
**Subject:** Requesting a variance to allow a structure to encroach into the required rear yard in the R-4 district.  
**Decision:** Tabled indefinitely  
**Summary:** The applicant requested this case be tabled in order that he might return home to Canada to attend to his wife's illness. He was not sure about when he would be able to return to discuss this proposal. The request to table the case was on the Consent Agenda, and was not discussed individually.  
**Motion:** It was moved by Mr. Shuff, seconded by Ms. von Borstel, that this case be tabled indefinitely.  
**Vote:** Passed 7-0  
**Finding of Fact:** N/A

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**Board of Adjustment Meeting  
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**Case No.:** BA04-005  
**Location:** 1161 W. University Drive.  
**Subject:** Requesting a Development Incentive Permit (DIP) to allow the development of a retail building in the C-2 district.  
**Decision:** Approved with Conditions  
**Summary:** This case was on the Consent Agenda, and was not discussed individually. The request involved the development of a small retail building at the southeast corner of Alma School Road and University Drive. The Development Incentive Permit would permit the following items as incentives for the development of this infill site:

- A. Reduction of street side landscape areas and building setbacks – from 30' to 5';
- B. Deletion of the street corner landscape radius requirement; and
- C. Reduction of retail entry foundation base requirements – from 15' to 7'.

**Motion:** It was moved by Mr. Shuff, seconded by Ms. von Borstel, that this case be approved, conditioned upon the following:

- 1) Compliance with the site plan and elevation submitted, except as modified by the conditions listed below;
- 2) Compliance with all conditions of approval for Design Review Board case DR04-04;
- 3) Compliance with all requirements of the Development Engineering and Building Safety Division;

**Vote:** Passed 7-0

**Finding of Fact:**

- 1.1 The case site is currently zoned C-2, and has been used as a gas station site before the Alma School Road widening. It is adjacent to commercial uses on the south and east, and is across the street from commercial uses to the west and north.
- 1.2 The Mesa 2025 General Plan designates this site as appropriate for Neighborhood Commercial uses. The current C-2 zoning is consistent with that that land use designation. Further, the proposed retail shops land use is a permitted land use in the C-2 district. Therefore, this proposal is consistent with both the general plan and the existing zoning district.
- 1.4 The widening of this intersection took place after all four corners had been developed, and all four sites had developed under past requirements that permitted smaller setbacks, or have been granted variance that recognized the redevelopment constraints caused by both the existing parcel sizes and the effect of the road widening. The northwest corner has been redeveloped as a retail pharmacy, and has been granted a variance to allow smaller street side setbacks (case BA98-24). The northeast corner has also been redeveloped. In this case, it has been developed as a new gas station convenience store (case BA96-002), and that project required variances in order to place both a gas pump canopy and a small retail store on the site. The southwest corner has remained largely the same since the road widening, as the street improvements (including the sidewalk) were placed to within 5' of both the parking garage and the convenience store.

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- 1.4 The proposed retail building would be placed on the site at a location similar to the location of the Seven Eleven store across the street to the west side of Alma School Road. It also would be setback 5' from the right-of-way line. The deviation from the 30' wide street side setback and the 100' landscape radius would permit this site to develop in a manner commensurate with these other three corners.
- 1.5 The other deviation from Chapter 15 standards is also needed to develop the site in a manner commensurate with surrounding sites. The foundation base starts at 7' wide at the north portion of the east building elevation, but widens to 15 towards the south portion of that elevation. The seven foot wide base provided is limited to one suite, and the entry to this suite "sides" to the foundation base. This allows customers to exit the store by way of the wider foundation base area.
- 1.6 Design Review Board have approved of the proposed site plan and elevations. Therefore, the project is considered as complying with the architectural standards called for by Chapter 14 – the Design Guidelines.

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**Board of Adjustment Meeting  
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**Case No.:** BA04-006  
**Location:** 3532 E. Kenwood.  
**Subject:** Requesting a variance to allow a structure to encroach into the required rear and side yard in the R1-35-PAD district.  
**Decision:** Approved with Conditions

**Summary:** The applicant, Mr. Thomas Kokaliare, indicated that he would like to modify his request. Because of the conditions, covenants and restrictions for his subdivision, he is required to maintain a row of citrus around the perimeter of his lot. He had recently received a new land survey, which indicated that he needed a minimum of a 15' side yard between the proposed garage and the side property line to make room for the existing trees. He also went on to explain that the private drive entry to the subdivision roughly aligned with his back property line. If he placed the detached garage on the east side of his lot, the garage would be the first thing he and his neighbors would see upon entering the subdivision. It was for this reason the architectural committee of the subdivision approved his proposal to place the garage on the west side of his lot.

Mr. Kokaliare then stated he would be willing to lower the plate height of the building, from 15' to 13'6". This would still allow sufficient room to park his RV, although it would not allow enough height for a Class A motor home, if he or a future owner wanted to use the garage for that purpose.

Mr. Sheffield indicated that staff would support the requested variance with the changes proposed by the applicant. The combination of lowering the height of the building, placing the building on the west side of the property, and providing a 15' building setback from the west property line would provide some mitigation for the overall height of the garage. The surrounding row of citrus trees on the north and west would effectively screen the building from the view of neighboring properties. Special circumstances would be present in the form of the CC&Rs for the subdivision. Normally, a detached building of the height proposed would need to be placed closer to the rear of the lot. However, because of the CC&Rs, the applicant would not be able to place an otherwise lawful building in the rear 25% of the parcel.

**Motion:** It was moved by Mr. Crockett, seconded by Mr. Clement, that this case be approved, conditioned upon the following:

- 1) Compliance with revised site plan, indicated that a row of citrus trees will remain along the north and west sides of the site;
- 2) Provision of a minimum building setback of 15' for the detached garage from the west property line; and
- 3) Reduction of the height of the building plate line from 15' to 13'6".

**Vote:** Passed 7-0

**Finding of Fact:**

- 1.1 The case site is located in a subdivision with a single private drive entry from a public street, within an area of the City of Mesa in which the City encourages the retention of citrus trees as part of an effort to maintain the historic agricultural character of the area. The conditions, covenants and restrictions for the subdivision mirror this goal by requiring the maintenance of one row of citrus around the perimeter of each lot.
- 1.2 Maintenance of one row of citrus requires the detached garage to be placed forward on the lot, in front of the rear 25% of the parcel. As such, the applicant cannot take advantage of an allowance afforded to other property owners in the R1-35 zoning district. Special circumstances are present.

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**Board of Adjustment Meeting  
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**Case No.:** BA04-007  
**Location:** 4303 S. Power Road.  
**Subject:** Requesting a Special Use Permit for a Comprehensive Sign Plan for the development of the Gateway Norte Builders Park.  
**Decision:** Approved with Conditions  
**Summary:** This case was on the Consent Agenda, and was not discussed individually. The request involved a comprehensive sign plan for Gateway Norte Builders Park, a mixed-use industrial and commercial project currently under construction at the northeast corner of Warner and Power Roads.

**Motion:** It was moved by Mr. Shuff, seconded by Ms. von Borstel, that this case be approved, conditioned upon the following:

- 1) Compliance with the comprehensive sign plan "Gateway Norte", as submitted, except as modified by the condition listed below;
- 2) The electronic variable message panel for Sign A5 shall be designed with a software program that will limit the light intensity emanating from the sign. Prior to the issuance of a sign permit, the sign manufacturer shall provide written certification that the light intensity has been factory pre-set not to exceed the levels specified in the Table 1 below, and that the intensity level is protected from end-user manipulation by password protected software or some other method as deemed appropriate by the Building Safety Director. The software shall include automatic intensity level changes between daytime and nighttime use, as specified:

**Table 1:  
Maximum Light Intensity Level for Electronic Variable Message Sign  
(Measured in NITS)**

<b>Color</b>	<b>Daytime</b>	<b>Nighttime</b>
Red Only	3,150	1,125
Green Only	6,300	2,250
Amber Only	4,690	1,675
Full Color	7,000	2,500

**Vote:** Passed 7-0

**Finding of Fact:**

- 1.1 The sign plan proposed deviates from standard Sign Ordinance maximums three times, twice for maximum sign area, and once for the total height of all signs on Power Road. The Board is required to make a finding that some unique aspect of the plan, whether it is the site, the design of the signs or the land use, creates a condition that warrants deviation from the sign ordinance maximums.
- 1.2 The Gateway Norte Sign Plan calls for the use of stone veneers that match the screening walls used for the project. It also calls for the use of halo illumination for the other primary identification signs listed in the plan, and provides severe restrictions to the size of the sign areas for most of the detached signs used for the project.
- 1.3 The signs include two detached signs that exceed the recommended horizontal to vertical aspect ratio of 2:1. These signs are to be built in a manner that integrates the sign with a screening wall, and continues the use of the stone veneer. Halo illumination will reduce the perceived size of the sign.
- 1.4 The total sign height of all of the signs along Power Road will exceed the sign ordinance maximum by 3.5'. The consistent use of smaller than permitted 8' and 9'6" signs will reduce the overall impact of the signs.

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**Board of Adjustment Meeting  
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**Case No.:** BA04-008  
**Location:** 4380 E. Main St.  
**Subject:** Requesting a Substantial Conformance Improvement Permit (SCIP) to allow the development of a retail building in the C-2 district.  
**Decision:** Approved with Conditions  
**Summary:** This case was on the Consent Agenda, and was not heard individually. The request involved the proposed expansion of a former convenience store gas station retail building into a small strip commercial center. The approved Substantial Conformance Improvement Permit would involve the following deviations from the present Chapter 15 requirements of the Zoning Ordinance:

- A. Reductions to the required landscape areas along the north and west sides – from 15' to as little as 3' on the north and from 15' to 10' on the west.
- B. Deletion of the required 100' landscape radius at the southeast corner of the site.
- C. Reductions to required building setbacks along the north and west sides – from 15' to as little as 3' on the north and from 15' to 12' on the west.
- D. Deletion of a required parking lot landscape island (One island required every eight parking spaces, the parking row adjacent to the building has eleven spaces without an intervening island).
- E. A reduction of the required foundation base – from 15' to a distance that varies between 13' and 3'.

The applicant will provide additional landscaping adjacent to Greenfield Road and along Main Street, widening these areas from 10' to 37' along Main Street, and from 15' to 30' along Greenfield Road, They are also proposing to remove the old gas canopy, and provide sufficient parking for most commercial uses. The case will be reviewed by the Design Review Board as is required for the major remodeling of a commercial building when located adjacent to an arterial street.

**Motion:** It was moved by Mr. Shuff, seconded by Ms. von Borstel, that this case be approved, conditioned upon the following:

- 1) Compliance with the site plan and elevations submitted, except as modified by the conditions listed below:
- 2) Compliance with all requirements of the Design Review Board.
- 3) Compliance with all requirements of the Building Safety Division; and
- 4) No more than 1,200 sqft of floor area shall be used for restaurant use.

**Vote:** Passed 7-0

**Finding of Fact:**

- 1.1 The case site is a former gas station convenience store on the northwest corner of Greenfield Road and Main Street. It was first developed in 1990, and has been abandoned for about the last two years or so. When first developed, the building location and circulation drive met all required building and landscape setbacks for the C-2 district.
- 1.2 The requested floor area addition would increase the building 127%, or a little over double its existing size. Dimensionally, the increase would be from 2,687 sqft to 6,100 sqft.
- 1.3 Landscape areas along both street fronts would increase to the present 30' requirement or more. If the 100' landscape radius were required, it would reduce the number of available parking spaces to an amount less than the number required to serve an unspecified shell commercial space.

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- 1.4 Landscape setbacks along the north and west sides would remain substantially the same as the existing convenience store building. Increasing these setbacks would require the demolition of the convenience store building.
- 1.5 The new construction would substantially comply with the required foundation base width of 15' by providing a 13' wide foundation base. The existing building would require a severe modification if the full 15' width was required.
- 1.6 The width of the street side landscape setbacks will be greater than the width of the landscape setbacks for any of the other corners of this intersection, and wider than the landscaping provided for the car wash site adjacent to the west. The size of the floor area will be consistent with percentage of lot coverage for the small commercial center to the east of the case site, across Greenfield Road.

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Respectfully submitted,

Gordon Sheffield, AICP  
Senior Planner