

# Board of Adjustment Minutes



City Council Chambers, Lower Level  
July 12, 2005

**Board members Present:**

David Shuff, Chair  
Greg Lambright, Vice Chair  
Randy Carter  
Mike Clement  
Roxanne Pierson  
Dianne von Borstel

**Board members Absent:**

(none)

(Note: The Board of Adjustment is one member short of the requisite seven because of the recent move of Carrie Allen to a residence outside of the Mesa corporate limits. This move made her ineligible to serve on the Board, Sec 11-18-5 of the Mesa City Code).

**Staff Present:**

Gordon Sheffield  
Tim Barnard

**Others Present:**

Mark Reeb  
Shawn Clow  
Rulon Andersen  
John Kressaty  
Gary Freed  
David McNamara  
Others

The study session began at 4:30 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 on Board of Adjustment Tapes # 328 and 329.

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

- A. The study session began at 4:45 p.m. The items scheduled for the Board's Public Hearing were discussed.

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

- A. Election of Officers  
It was moved by Boardmember von Borstel, seconded by Boardmember Carter, that David Shuff act as Chair and Greg Lambright as Vice Chair of the Board of Adjustment for the next 12 months. **Vote: Passed 6-0**
- B. Consider Minutes from the June 14, 2005 Meeting  
It was moved by Vice Chair Lambright and seconded by Boardmember Pierson, that the minutes of the June 14, 2005 Board of Adjustment meeting be approved. **Vote: Passed 6-0**
- C. Consent Agenda  
Approval of the Consent Agenda, with the conditions noted, was moved by Boardmember Carter, seconded by Boardmember Clement. **Vote: Passed 6-0**

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**Case No.:** BA05-025

**Location:** 206 North Power Road

**Subject:** Requesting a Development Incentive Permit (DIP) to allow construction of a medical office building in the O-S zoning district

**Decision:** **Approved with Conditions**

**Summary:** This case was on the Consent Agenda, so it was not discussed individually. The request involved the development of a medical office complex consisting of five small offices, each under 1000 sqft. (total size 4,056 sqft). During the study session, Boardmember Carter indicated that he would support the case, but requested the Design Review Board consider the site plan in its review, as well as the other design related aspects of the case. In particular, he noted that room may exist on the site for the trash dumpster to be set back from the west property line.

**Motion:** It was moved by Boardmember Carter, seconded by Boardmember Clement, that case BA05-025 be approved, conditioned on the following:

- 1) *Compliance with the site plan and elevations as submitted, except as modified by the conditions below.*
- 2) *Compliance with all requirements of the Design Review Board.*
- 3) *Compliance with all requirements of zoning case Z05-21.*
- 4) *Compliance with all requirements of the Building Safety Division.*
- 5) *Compliance with all requirements for the partial abandonment of the alley right-of-way currently crossing the case site.*
- 6) *Provision of a minimum 13' wide dedicated pedestrian access from the on-site circulation lane to the central courtyard/breezeway (which in turn leads the point labeled "common area" on the site plan).*

**Vote:** Passed 6-0

**Finding of Fact:**

- 1.1 The case site qualifies for consideration of a Development Incentive Permit (DIP). The site is less than 2.5 acres, and consists of three lots assembled for the purpose of creating a larger, more usable office site. A minimum of half the area within 1200' of the site was developed 15 years ago, and at least three-quarters of this same radius is presently developed.
- 1.2 The case site is approximately 0.6 acres, if the area of the portion of the alley that is to be abandoned is included (the alley abandonment has not been approved by City Council for technical reasons). Because of the relatively shallow lot depth from both Power Road and Albany Street, provisions for a building footprint and perimeter landscaping and a single load parking field are difficult to accommodate. The applicant has provided street side landscape areas similar to those found for neighboring commercial sites.
- 1.3 The project is consistent with adopted Council policies, as confirmed by the City Council when the zoning for this site, including the site plan, was approved in April of this year.
- 1.4 The number of parking spaces is a fraction short of the required number. In most cases, that additional fraction would result in "rounding up" the number to the next whole. In this case, the

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small fractional amount (18 sqft) is not significant enough to require either a reduction in floor area or provision for an additional parking space.

- 1.5** The submitted landscape plan does not provide for an off-loading area from the circulation lane to the building front. Room exists for such a dedicated pedestrian access, and revision to include for such an off-load area can be easily made. Subsequent review by the Design Review Board will assure that such a pedestrian access is included.

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**Case No.:** BA05-026

**Location:** The 4000 through 4200 blocks of East McDowell Road, North side

**Subject:** Requesting a Special Use Permit for a Comprehensive Sign Plan for an industrial park subdivision in the M-1-PAD zoning district

**Decision:** **Approved with Conditions**

**Summary:** This case was placed on the Consent Agenda by the Board (Motion by Clement, second by Lambright, Vote: passed 6-0), with the Board adding a condition 5 to the four conditions recommended by Planning Division staff. Condition 5 would read:  
*“5. Compliance with all requirements of the Design Guidelines, Chapter 11-14 of the Zoning Ordinance.”*

The applicant, Mr. Mark Reeb, was in the audience, and acknowledged his agreement with the added condition. No one else was present or asked to speak regarding this item

**Motion:** It was moved by Mr. Carter, seconded Mr. Clement, that case BA05-026 be approved, conditioned upon the following:

1. *Compliance with the sign plan submitted, except as modified by the conditions listed below;*
2. *Compliance with all requirements of the Building Safety Division with regard to the issuance of a sign permit;*
3. *Replacement and/or relocation of any citrus trees removed as a result of the trees screening the view the sign from McDowell Road.*
4. *The sign copy is to be installed in a manner that is integral to the structure. Any illumination is to be internal to the sign copy, and not from an external source.*
5. *Compliance with all requirements of the Design Guidelines, Chapter 11-14 of the Zoning Ordinance.*

**Vote:** Passed, 6-0

**Finding of Fact:**

- 1.1 The proposed detached sign is located within the same subdivision as the intended beneficiary of the sign. This subdivision has common Condition, Covenants and Restriction (CC&R's), and has been approved as a Planned Area Development by the City Council, as found in Zoning Cases Z84-7 and Z99-99.
- 1.2 The proposed detached sign will make use of an existing, abandoned guardhouse adjacent to McDowell Road, and serve as a directional sign to the Stonebridge Manor reception center. The reception center is located directly north of the guardhouse when traveling on North Norwalk.
- 1.3 The size of the directional sign is less than the maximum height and area permitted for detached located within an M-1 district.
- 1.4 Given the history of the development of this subdivision and the reception center, unique conditions are present.
- 1.5 As conditioned by the Board, the design of the sign will be in compliance with the Design Guidelines.

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**Case No.:** BA05-027

**Location:** 3502 North Mountain Ridge

**Subject:** Requesting a Special Use Permit to allow the installation of a commercial wireless communication "mono-cactus" facility in the R1-7-PAD-DMP zoning district.

**Decision:** **Approved with Conditions**

**Summary:** Mr. Rulon Andersen represented T-mobile regarding this request to place a "mono-cactus" wireless communication tower adjacent to the maintenance yard of the Las Sendas golf course. He indicated agreement with the staff recommendation, and made himself available for any questions from the Board.

Mr. John Kressaty spoke next, representing the Architectural Control Committee (ARC) for Las Sendas. He indicated that this proposal has not been submitted to his committee, and does not yet have full approval of the ARC, although the ARC does not oppose this request. He noted that T-mobile had been working with the Las Sendas Homeowner's Association with regard to possible sites.

In response, Mr. Andersen indicated that the radio frequency engineers for T-mobile had selected this as the best site to serve the Las Sendas and surrounding area. He also noted the presence of a 35' high saguaro in the general vicinity of this proposed site, noting the 36' high mono-cactus structure would have a compatible design.

In response to a question from the Board, Mr. Sheffield indicated that this was the first "faux cactus" design in Mesa, and that faux palms design in the Las Sendas area would appear artificial because palms do not occur naturally in this vicinity, and are prohibited from being used in designed landscapes. Mr. Andersen added that the cactus designs had improved substantially since the first artificial looking "bright green" structure had been erected in the Scottsdale area. He circulated a photograph of one being built in the Carefree area. After looking at the photograph, several Boardmembers commented on the natural appearance of the structure.

**Motion:** It was moved by Mr. Lambright, seconded by Ms. Pierson, that case BA05-027 be approved, conditioned upon the following:

1. *Compliance with the site plan and elevation submitted, except as modified by the condition listed below.*
2. *Compliance with all requirements of the Building Safety Division.*
3. *Review and approval by Planning Division staff to assure that the "mono-cactus" structure has a "natural appearance", and does not appear artificial.*

**Vote:** Passed: 6-0

**Finding of Fact:**

- 1.1 As proposed, the design, general location and specific placement of the proposed "mono-cactus" or faux cactus communication tower design complies with City Council policies, as outlined in the adopted *Commercial Communication Tower Guidelines (adopted 1997, amended 2004)*.

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**Case No.:** BA05-028

**Location:** 1635 North Gilbert Road

**Subject:** Requesting a Special Use Permit to allow the installation of a commercial wireless communication “mono-palm” facility in the R1-9 zoning district.

**Decision:** **Approved with Conditions**

**Summary:** Mr. Rulon Andersen represented T-mobile regarding this request to place a “mono-palm” wireless communications facility at Chaparral Park (east side of Gilbert Rd, north of Brown Rd). Mr. Andersen noted that the Parks and Recreation Board had approved the site, and that he had been working on placement of such a facility at this location for over a year. He stated that as a site selection consultant for wireless communication companies, he tries to see that locations involving City properties are a high priority, with church and school sites being next, and then commercial or industrial locations. Mr. Andersen also indicated that he had lobbied for a park location policy with the City Council for wireless facilities with sites such a Chaparral Park in mind. He indicated that if this site was not chosen, he would likely file for a similar request for a nearby church site.

Continuing, he agreed with the staff analysis of this request, and indicated he would be available for any questions.

Mr. Tim Barnard of the Mesa Community Services Department spoke next. Mr. Barnard affirmed that the Parks and Recreation Board had considered this site at two different meetings last May, approving the project to proceed at that Board’s May 24 meeting. He stated that he had worked with Planning Division staff on the preparation of the *Wireless Communications Facilities Design and Placement Guidelines for Parks and Recreational Facilities (the Guidelines)*, which in turn had been approved by the City Council. This project was designed to be consistent with these adopted *Guidelines*. After a question from the Board, he indicated that this site was a Level Two property, and would likely receive a lease in accordance with the standard City lease rate for properties judged to be at that level.

Mr. Gary Freed spoke next, in opposition. He indicated he felt the City should not place cell tower sites within City Parks, and that City Parks should be reserved for recreational enjoyments. He opposed the adopted *Guidelines* in principle, but also stated he felt this proposal did not comply with the *Guidelines* because neighborhood groups used the retention area at the foot of the proposed tower location for Little League and T-ball practice as well as for neighborhood football games. He stated the park was in constant use, and would be adversely affected by installing the proposed faux palm designed tower at this site, and it would particularly adversely affect the quality of life in this neighborhood.

Continuing, Mr. Freed indicated he would continue to oppose this proposal, despite what the Board may decide. If the Board did approve the case, he

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indicated opposition to any possibility of co-location or increase in height, noting that such changes to “faux” design detracted from the natural look of the initial installation. He felt the co-located installation on the faux palm at the Outback Steakhouse site (near the northwest corner of Gilbert and McKellips Roads) was particularly ugly, and did not want to see a similar co-located facility at this case site.

Concluding, Mr. Freed noted that the letters required for notice to neighboring property owners by the *Guidelines* had been sent on T-mobile stationery, and opined that many of his neighbors had thrown these letters in the trash believing the letters to be junk mail. He believed that there would be more opposition to this request present if the letters had appeared to have an “official City of Mesa business” appearance.

Next, Mr. David McNamara spoke in opposition. Mr. McNamara believed the project to be ugly and unattractive, and would detrimentally impact the value of his property, which was directly across Gilbert Road from the park. In addition to what he believed to be the relative unattractiveness of the faux palm, Mr. McNamara disliked the addition of tall walls next to the utility pumping station that had been recently erected at the park site. He was concerned over the possibility of a constant stream of utility related service vehicles on the site at all hours, with the City Utility Division, the local telephone company and now T-mobile Wireless Communications all having facilities at the park site, including disrupting noises and bright lights at odd hours. Concluding, he stated a concern about possible health effects, and reiterated the point made earlier about the notice letters by Mr. Freed. He stated his preference would be for this facility to relocate to a commercial site.

In response to questions from the Board, Mr. Sheffield stated that the Board should ignore any stated concerns about health effects, as the federal Telecommunications Act of 1996 prohibited local zoning authorities from taking such concerns into consideration. He noted that, in the staff’s opinion, this project complied with the *Guidelines* as adopted by the City Council, and read the definition of Special Use Permits from Sec 11-1-6 of the Mesa Zoning Ordinance. The definition called for a determination by the Board of whether the case was “consistent with the General Plan, the intent of the Zoning Ordinance and other approved Council policies, and would be compatible with and not detrimental to surrounding properties.” Concluding, he advised the Board to look past the possible lease income to the City, and decide the case instead as a land use question, based on the criteria provided for them by the City Council.

The Board asked about the possible lease income. Mr. Sheffield indicated that the suggested rate was noted in the minutes of the Parks and Recreation Board, which the Board had as part of their packets, but that the lease rate was not germane to the decision by this Board. Rather, the Board should review the case based on how it complies with adopted Council land use policies. As recommended by staff, this site could be found to comply.

Mr. Lambright asked about limiting the possibility of co-location or

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restricting administrative reviews. Mr. Sheffield responded by stating the Board could condition any approvals by requiring any requests for co-location or increases in height to be reviewed by this Board.

**Motion:** It was moved by Mr. Clement, seconded by Ms. von Borstel, that case ZA05-028 be approved with the following condition:

1) *Compliance with the site plan and elevation, as submitted.*

It was then suggested that the following condition be added as a friendly amendment by Mr. Lambright:

2) *All modifications to the mono-palm structure shall be reviewed and approved by the Board of Adjustment before issuance of a Building Permit (including requests otherwise eligible for administrative reviews, such as co-location of antennas for a second carrier or increases of ten feet (10') or less in structure height).*

Mr. Clement agreed to Mr. Lambright's suggested amendment, as did Ms. von Borstel.

Chair Shuff then called the question, as amended, for a vote.

**Vote:** Passed 6-0

**Finding of Fact:**

- 1.1 As proposed, the design, general location and specific placement of the proposed "monopalm" or faux palm communication tower design complies with City Council policies, as outlined in the adopted *Commercial Communication Tower Guidelines (adopted 1997, amended 2004)*, and the *Wireless Communications Design and Placement Guidelines for Parks and Recreational Facilities (adopted 2004)*.

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Respectfully submitted,

Gordon Sheffield, AICP  
Acting Zoning Administrator  
Secretary, Board of Adjustment

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