



# **Board of Adjustment**

## **Minutes**

**City Council Chambers, Lower Level  
July 14, 2009**

**Board members Present:**

Dianne von Borstel  
Greg Hitchens  
Garrett McCray  
Linda Sullivan  
Scott Thomas  
Judah Nativio  
Tyler Stradling

**Board members Absent:**

All present

**Staff Present:**

Jeff McVay  
Mia Lozano-Helland  
Lesley Davis  
Wahid Alam  
John Wesley

**Others Present:**

Bill Comings  
Frank Grace  
Rick Bzlch  
Chuck Eberhardt  
John Christakis  
James Braselton  
Others

The study session began at 4:39 p.m. The Public Hearing meeting began at 5:30 p.m. Before adjournment at 7:00 p.m., the following items were considered and recorded. The recording is available upon request.

**Study Session 4:39 p.m.**

- A. The study session began at 4:39 p.m. The items scheduled for the Board's Public Hearing were discussed.

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

- A. Consider Minutes from the June 9, 2009 Meeting A motion was made to approve the minutes by Board member Thomas and seconded by Board member Hitchens. Vote: Passed 6-0, Abstain 1

- B. Consent Agenda

Due to a Board member conflict there were two consent agendas.

A motion to approve the consent agenda 1 as read was made by Board member Nativio and seconded by Board member McCray. Vote: Passed 7-0

A motion to approve the consent agenda 2 as read was made by Board member Thomas and seconded by Board member Hitchens. Vote: Passed 6-0, Abstain 1

**Board of Adjustment Meeting  
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**Case No.:** BA09-019

**Location:** 758 East Brown Road

**Subject:** Requesting: 1) a Development Incentive Permit (DIP); and 2) a Special Use Permit (SUP); all in conjunction with the development of a retail store and automobile service station in the C-2 zoning districts.

**Decision:** Continued for 60 days to the September 8, 2009 meeting.

**Summary:** Scott Nye from GBMA Architecture represented the case and requested a 30 – 60 day continuance to allow them more time to review staff recommendations with their client. An item of concern is the removal of the eastern most curb cut and driveway recommended by the City. The owner feels that removal of the driveway might deter customers and require revisions to the site plan.

**Motion:** It was moved by Board member Sullivan, seconded by Board member Nativio to continue case BA09-019 for 60 days.

**Vote:** Passed 5-1 (Stradling Abstain)

**Findings:** N/A

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**Board of Adjustment Meeting  
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**Case No.:** BA09-022

**Location:** 2518 West Monte Ave

**Subject:** Requesting a variance to allow an addition into the required side yard in the R1-6-DMP zoning districts.

**Decision:** Denied.

**Summary:** Harold Goble, the homeowner represented the case. He stated that the location and angle of the existing 2-car garage makes it difficult to easily maneuver a vehicle in or out of the garage. His wife has a health condition of her back that limits her ability to fully rotate her body while in the car and safely back out of the garage. Mr. Goble stated that he rarely needs vehicular access to his rear yard and that he will still have access to the rear yard via the lake and existing dock. A question regarding the denial of the project by the Dobson Ranch Association was raised. Mr. Goble explained that Dobson Ranch will reconsider the project if the City approves the plan. Staff member Jeff McVay explained the setbacks required by the Code and the requirement to meet the setbacks regardless of vehicular access. Board member Stradling asked Mr. Goble for clarification of how his wife's health issues have a strong relationship to the angle of the garage and if alternatives such as a 1-car garage that would meet setbacks have been considered. Mr. Goble explained his wife's problems backing out and stated that a 1-car garage would look odd and possibly devalue his property. Board member McCray asked Mr. Gobel what his plan were for the existing 2-car garage. Mr. Goble stated that the garage would be used for storage. Mr. Goble stated that he would be willing to add a 'pass-thru' option on the back end of the garage to provide vehicular access to the rear yard. Staff explained that this would not correct the reduced building setbacks. Board member Stradling asked if the physical actions Mrs. Goble uses in the driveway are beyond what is typically required for any type of driving. Mr. Goble stated that the driveway actions were somewhat unique.

**Motion:** It was moved by Board member Hitchens, seconded by Board member Stradling to deny case BA09-022.

**Vote:** Passed 6-1

**Findings:**

- 1.1** The variance would allow construction of a 738 sq. ft. attached garage on the west side of the property. The addition would encroach 7 feet into the required 10 foot side yard setback. Submitted plans show the house presently located within 6 feet of the east property line (opposite the side of the proposed addition). By default the west side of this property (the location of the garage addition) is the required 10 foot side.
- 1.2** The property is an interior lot in the subdivision with no access to an alley. At least one side yard is required to have a minimum width of 10 feet, principally to allow for vehicular access to the rear yard. Pursuant to §11-13-2(E), with a few minor exceptions, no part of the home may encroach

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into a required building setback of a single residence district, and there are particularly no exceptions that would otherwise permit an encroachment into the “vehicular access” side yard. (§11-13-2(E) is listed below in “Ordinance Requirements”).

- 1.3** The site is zoned R1-6-DMP and is located in the Westport Bay Subdivision which is a part of Dobson Ranch. The 738 sq. ft. garage together with the existing home would result in an aggregate roof area of approximately 29 percent of the entire lot. This is within the maximum allowable roof area coverage of 40 percent.
  
- 1.4** The parcel is similar in size and in some cases larger than other parcels in this subdivision. This property does have an existing two car garage that is being used as storage. The applicant has not provided sufficient justification related to special or unique conditions of the land to support the requested variance.

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**Case No.:** BA09-025

**Location:** 2030 West Southern Avenue

**Subject:** Appeal of Zoning Administrator Hearing Officer decision regarding a Special Use Permit (SUP) in conjunction with the redevelopment of an automobile service station in the C-2 zoning district.

**Decision:** Continued for 60 days to the September 8, 2009 hearing.

**Summary:** David Cisiewski from MD Partners represented the case for Circle K. Mr. Cisiewski provided details of the site redevelopment and the claim by Mr. Riccardone that the project will impair visibility of his shopping center that is located to the rear of the redevelopment site. Mr. Cisiewski displayed exhibits that illustrate the visibility will be increased with the removal of the existing buildings. In addition, there is a private easement at the north property line established in 1978 that does not provide access to Dobson Rd. The easement in question is a private agreement between property owners. Board member Hitchens asked about existing and future connections between Mr. Riccardone's property and the Circle K site. Board member McCray asked about the previous SUP and the time lapse. Mr. Cisiewski explained that there had been an issue with the original property survey. James Braselton, attorney for Mr. Riccardone, disputed the claims of improved visibility and urged the Board not to approve the SUP. Board member Nativio asked if there were negotiations occurring to settle the issue. Mr. Braselton stated that there has been an exchange of settlement offers, but no agreement to date. Board member von Borstel asked if there should be a condition included to prevent a building permit from being issued until the easement issue has been resolved. Staff agreed that this could be done. Zoning Administrator Sheffield suggested that the case be continued to allow the parties to continue negotiations and resolve the easement issue. Both parties were in agreement to a continuance. Board member McCray did not see a benefit in continuing the case for 60 days due to the issue relating to private matters; his preference was for voting on the SUP case before the Board and allowing the private negotiations to continue separately. Board member Nativio preferred to continue the case until the easement issue is resolved.

**Motion:** It was moved by Board member Nativio, seconded by Board member Hitchens to continue BA09-025 for 60 days to the September 8, 2009 meeting.

**Vote:** Passed 4-2 (Stradling abstaining)

**Findings:** N/A

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**Board of Adjustment Meeting  
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**Case No.:** BA09-026

**Location:** 2601 East Brown Road

**Subject:** Requesting a Substantial Conformance Improvement Permit (SCIP) to allow the expansion of a church building in the O-S zoning district.

**Decision:** Approval with conditions

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

**Motion:** It was moved by Board member Nativio, seconded by Board member McCray to approve BA09-026 with the following conditions.

1. *Compliance with the site plan submitted, except as modified by the conditions below.*
2. *Modify the curb line on the east side of the new addition to allow for the required 10' foundation base. .*
3. *In addition to landscaping identified, provisions of nine (9) minimum five (5) gallon size shrubs within the landscape setback from the south property line and adjacent to parking.*
4. *In addition to landscaping identified, provision of fifteen (15) minimum five (5) gallon size shrubs within the landscape setback from the west property line and adjacent to parking.*
5. *In addition to landscaping identified, provision of twenty-one (21) minimum five (5) gallon size shrubs within the landscape setback from Brown Road.*
6. *Compliance with all requirements of the Building Safety Division with regard to the issuance of building permits.*

**Vote:** Passed 7-0

**Findings:**

- 1.1** This project will expand an existing church development and allow construction of a 3,416 s.f. addition for a Sanctuary. The property was rezoned from residential in 1992 to accommodate an office use and was later converted into a church. Code development standards changed significantly since the original development of the property. This property is a legal nonconforming site in that it does not comply with current Code in regards to landscape and building setbacks, landscape quantities, foundation base, screening and parking lot landscape islands.
- 1.2** As justification for a Substantial Conformance Improvement Permit (SCIP), the applicant noted that: 1) existing buildings on the property were built prior to the current development standards; 2) the appearance of existing structures will not be altered; 3) perimeter landscaping will be upgraded to more closely comply with current Code; 4) the proposed addition will tie in with the architecture of the existing building; and 5) additional landscape islands have been provided within and adjacent to the parking lot.
- 1.3** It is important to note that full compliance with current Code development standards will require significant alteration of the existing development site, including the demolition of existing

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buildings, and further elimination of on-site parking. The improvements to the site will bring it closer to compliance with current Code

- 1.4** The approved deviations relate to building and landscape setbacks, the number of shrubs provided around the perimeter of the property, and foundation base requirement on the east side of the sanctuary addition. The addition will not encroach into any of the required setbacks. The existing setbacks are approximately half of the required setback dimensions for the site and the trees on the site are mature. No additional trees are required, however the number of shrubs provided can be brought into a greater degree of conformance through additional plantings adjacent to Brown Road and the west and south property lines. Additionally, the full 10-feet of foundation base are provided on the east side of the addition. The parking lot drive aisle is 43-feet wide and can easily accommodate this adjustment. Conditions of approval are included to address these adjustments.
- 1.5** The request associated with the Church expansion will be reviewed administratively for compliance with design guidelines.
- 1.6** The site plan, including the recommended conditions of approval, provides substantial conformance with current development standards and demonstrates site improvements that will benefit the property owner and surrounding neighborhood.

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**Case No.:** BA09-027

**Location:** 1201 South Alma School Road

**Subject:** Requesting a Special Use Permit (SUP) to allow modification of an existing Comprehensive Sign Plan for Mesa Financial Plaza located in the C-2 BIZ zoning district.

**Decision:** Approved with conditions.

1. *Compliance with the sign plan submitted, except as modified by the conditions listed below.*
2. *Location and size of the attached tenant sign for the DeVry University to be approved by Planning Division staff prior to submittal for construction permit.*
3. *The proposed attached sign shall not be larger than be larger than 160 square feet.*
4. *Compliance with all requirements of the Building Safety Division with regard to the issuance of sign permits.*

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

**Motion:** It was moved by Board member Thomas, seconded by Board member Hitchens to approve case BA09-027 with the following conditions.

**Vote:** Passed 6-0 (Nativio abstaining)

**Findings:**

- 1.1 The Mesa Financial Plaza building formerly known as Bank of America Tower was built in 1986 as a 16 story single tower building for a total of approximately 309,983 square feet and a five level parking garage structure with a parking ratio of 3.5 per 1, 000 sq. ft of floor area.
- 1.2 The applicant provided the following justification for the request:
  - a) Attaching new signs to the tower will be cost prohibitive due to the unique structural and architecture detail of the glass façade.
  - b) DeVry University, a major tenant, is leasing half of the 5<sup>th</sup> floor to teach and operate from the location. Signage is key to help identify, direct and increase awareness of the new campus location. Using the garage for sign placement will accomplish this goal, and for the benefit and betterment of all Mesa citizens and neighbors searching for a better economic future thru DeVry Universities.
  - c) The use of a raceway allows attachment to the parking structure with heavy reinforced concrete and thich rebar with only two penetrations where individual letters will require no less than 16 holes to electrically wire the sign. Raceways will minimize the damage to the structural support of the wall from becoming a 'peg board' façade in the long term.
  - d) The applicant finds the letter size and square footage and in acceptable proportions for the height on the building and distance from the street for a balanced appearance. The

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Universities' colors as shown are not over powering and in balance with comparable signs and logos in the area.

- e) This Special Use Permit is a favorable solution to solve a long time concern for the business's in the Tower, with so many developments going out of business in the immediate area, being able to identified and recognized will help go a long way in surviving and prospering in this current economy.

- 1.3** The Mesa Financial Plaza Tower is a multi-storied building and does not have identification signs for individual tenants of any size. The sign is for a tenant that will occupy half of one floor ( $\pm 10,000$  s. f.) of the Tower. The applicant has noted that DeVry is a major tenant, helping justify the tenant sign. Staff has concern that establishing a major tenant; worthy of individual identification will result in sign clutter. The size of the building creates a potential for similar requests for numerous signs on the tower and parking garage.
- 1.4** The approved sign is compatible with the parking structure architecture, scale and will not result in sign clutter.
- 1.5** Regardless of size, no one tenant should be allowed greater than 160 sq. ft. maximum attached sign area that is allowed by code. This will result in a 19% reduction in size, but will still allow a sign large enough to be legible from Alma School Road,  $\pm 150$  feet away.
- 1.6** All future requests will be review based on architectural compatibility and sign clutter versus size of the tenant space.

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- Case No.:** BA09-028
- Location:** 1324 South Country Club Drive
- Subject:** Requesting a Special Use Permit (SUP) to allow development of a Comprehensive Sign Plan for a group commercial development in the C-2 zoning district.
- Decision:** Approved with conditions
1. *Compliance with the sign plan submitted except as modified by the conditions below.*
  2. *Campeones Restaurant shall be permitted one (1) attached sign with a total of three hundred and eighty (380) square-feet.*
  3. *Campeones Restaurant shall be permitted six (6) modifier signs provided the signs are placed under the existing canopy and do not exceed fifty (50) square-feet each for an aggregate total of three hundred (300) square-feet.*
  4. *The sphere element identified at the top of the primary sign may not project more than two-feet above the roofline of the building. No part of the sign area may project above the roof.*
  5. *Design Review approval is required for any proposed murals and to modify any colors and/or materials for the existing building. The changes to the elevations must not reflect what could be considered a sign as described in Section 11-19-11 of the Zoning Ordinance, including multiple colored bands, stripes, patterns, outlines or delineations displayed for the purpose of commercial identification.*
  6. *Monument signs and attached signage for all other tenants within the shopping center must comply with Zoning Ordinance standards.*
  7. *Electronic message displays must comply with 11-11-19-8(D)17(a).*
  8. *Compliance with all requirements of the Building Safety Division with regard to the issuance of sign permits.*
- Summary:** This case was on the consent agenda and not discussed on an individual basis.
- Motion:** It was moved by Board member Nativio, seconded by Board member McCray to approve case BA09-028 with the following conditions.
- Vote:** Passed 7-0
- Findings:**
- 1.1 The CSP does not modify the detached signs that already exist within the shopping center, which are required to comply with Code standards. The CSP also does not modify the allowable area and number of signs allowed for other tenants within the shopping center. All other tenants must comply with Code standards.
  - 1.2 The CSP allows one attached sign with an aggregate sign area of 380 square feet for the identified tenant (Julio Cesar Chavez – Campeones Restaurant). Current Code allows a maximum of three attached signs with an aggregate sign area of 160 square feet. The CSP also allows six attached signs below the canopy with an aggregate sign area of 600 square feet. Given the proposed square footage, as well as the proximity to Southern Avenue and limited number of intervening buildings, these signs will be visible from off-site and must be counted in the total number of signs and aggregate sign area. A condition of approval requires that the signs under the canopy be limited to

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50 square feet each for the six (6) signs, allowing an aggregate total of 300 square feet, and allows the signs to be considered modifiers.

- 1.3** The sign at the entry creates a prominent entry feature with a large area for signage. The signage is consistent with the scale and architecture of the building.
- 1.4** The elevation provided indicates that the building will be painted as a mural in the area above the canopy. Design Review approval is required for a mural and to modify the color and/or materials of the existing building. The mural may not reflect what could be considered a sign as described in Section 11-19-11 of the Zoning Ordinance. This includes multiple colored bands, stripes, patterns, outlines or delineations displayed for the purpose of commercial identification.
- 1.5** The small illuminated sphere feature at the top of the primary building sign will project two (2) feet above the roof line of the building. This feature is an architectural enhancement to the sign and none of the proposed lettering will project above the roof line.
- 1.6** The primary building sign includes an electronic message display. There is no request to consider deviation to the standards; therefore the sign must comply with those standards including the requirement that the message remain static for a minimum period of one (1) hour.
- 1.7** As approved, the aggregate attached sign area for the proposed Campeones Restaurant will be decreased from the CSP proposal. The aggregate sign area will still exceed current Code maximums. The CSP, including conditions of approval, is justified by the scale of the buildings, and the integration of unique signage with building architecture.

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Respectfully submitted,

Gordon Sheffield, AICP  
Zoning Administrator  
Board of Adjustment

Minutes written by Mia Lozano-Helland  
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