



Board of Adjustment Meeting Minutes

COUNCIL CHAMBERS BUILDING
CONFERENCE ROOM B-3
SEPTEMBER 10, 2015
4:00 P.M.

CALL TO ORDER

Chairperson Toops called the meeting to order at approximately 4:00pm.

ROLL CALL

Board members Blakely, Dietzman, Feiner, and Zarra, Vice Chairperson Vescio, and Chairperson Toops were present.

STAFF PRESENT

Tabitha Perry, Assistant Planning Director, Russ Romney, Assistant City Attorney, Martin Martell, Planner, and Diana Figueroa, Recording Secretary were present.

APPROVAL OF MINUTES

Chairperson Toops called for approval of the July 9, 2015 Regular Meeting Minutes.

Board member Zarra made a motion to approve the meeting minutes as written. Board member Blakely seconded the motion, which was approved unanimously.

WITHDRAWALS AND CONTINUANCES

Chairperson Toops asked if there were any Withdrawals or Continuances. There were none.

PUBLIC HEARING ITEMS

Chairperson Toops called for staff's presentation on the public hearing items.

1. **VAR15-04:** A request by Harry White Jr. to allow an increase of the permitted maximum height of a front yard wrought iron/cmu wall from three (3) feet to six (6) feet on a property zoned R1-6 (Single Residence). The site is located at the southeast corner of Bethany Home Road and 72nd Avenue (5909 North 72nd Avenue) and is in the Yucca District. Staff Contact: Martin Martell, Planner.

Martin Martell, Planner, stated this is a variance request to allow an increase of the permitted maximum height of front yard fences or walls from 3' to 6' on a property in the R1-6 (Single Residence) Zoning District. He said the subject site is located on the southeast corner of Bethany Home Road and 72nd Avenue.

Mr. Martell said the property and the surrounding properties are single family residences that are zoned R1-6. He said Section 5.3180A of the Zoning Ordinance states that the maximum height permitted for front yard fences and walls is three feet.

He continued by stating on June 1, 2015, notification letters were mailed to adjacent property owners and interested parties. From these letters the applicant received three responses; two were in favor and one was indifferent. To date, Planning staff have received two inquires about the variance. One was concerned about traffic safety at the adjacent intersection and the other felt a 6' wall in the front yard is excessive.

Mr. Martell reviewed staff's findings.

1. **There are special circumstances/conditions applicable to this property including its size, shape, topography, location, or surroundings, which were not self-imposed by the owner;**

He explained that currently the property is located next to a busy multi-lane arterial which has created safety concerns for the property owner in regards to his grandchildren and household pets in his front yard.

2. **Due to the special circumstances, the strict application of the Zoning Ordinance would deprive the property of privileges enjoyed by other properties of the same classification in the same zoning district;**

He said unlike the majority of homes within the R1-6 Zoning District, which are located next to a quiet residential street, this property is located next to a high speed multi-lane arterial.

3. **The variance is the minimum necessary to alleviate the property hardship; and**

The requested increase of the permitted front yard fences and wall height to 6' would alleviate the property owner's safety concerns for his grandchildren and pets.

4. **Granting the variance will not have a detrimental effect on the property, adjoining property, the surrounding neighborhood, or the city in general.**

The requested wall height will practically be indiscernible from the street and the neighboring properties because the majority of this front yard wall will be a wrought iron view fence. Moreover, traffic safety at the adjacent intersection will be enhanced by the addition of a visibility triangle on the northwest corner of front yard wall.

In conclusion, Mr. Martell stated the variance request appears to meet all four findings and should be approved. If the Board decides to grant the variance, it shall be subject to the following two stipulations with a revision to stipulation #2:

1. Development shall be in conformance with the narrative dated June 1, 2015.
2. A visibility triangle shall be provided in the northwest corner of the existing wall in front yard, set at a minimum of ten (10) feet from the west and north walls. The existing wall that is inside this visibility triangle shall be demolished and removed.

He stated he was available for questions.

Chairperson Toops asked for questions from the Board.

Board member Dietzman confirmed that a portion of the wall would be removed. Mr. Martell said yes.

Board member Dietzman asked if it would be block and/or wrought iron. Mr. Martell said it would be wrought iron placed in between the block posts.

Chairperson Toops called for the applicant.

Mr. Harry White, applicant, introduced himself, and stated he agreed with staff's presentation. He said he was available for questions.

Chairperson Toops opened the public hearing. With no one wishing to speak, he closed the public hearing.

Based on the facts and evidence presented, Mr. Russ Romney, Deputy City Attorney, requested a vote from the Board. He read each finding and waited as the Board responded.

Finding One. Chairperson Toops called for a voice vote on Finding One. The Board responded with a vote of 6 to 0 in favor.

Finding Two. Chairperson Toops called for a voice vote on Finding One. The Board responded with a vote of 6 to 0 in favor.

Finding Three. Chairperson Toops called for a voice vote on Finding One. The Board responded with a vote of 6 to 0 in favor.

Finding Four. Chairperson Toops called for a voice vote on Finding One. The Board responded with a vote of 6 to 0 in favor.

Mr. Romney asked, based on the findings, if the Board wished to grant variance VAR15-04, subject to the two stipulations set forth by the Planning Division.

Board member Zarra made a motion to approve VAR15-04 subject to stipulations listed in the staff report with a revision to Stipulation #2. Board member Blakely seconded the motion, which was approved with a vote of 6 to 0.

2. **VAR15-12:** A request by Sheldon Shaw, representing Jerry & Vickie Moyes, to allow a reduction of the side yard setback from the required fifty (50) feet to fifteen (15) feet and increase the allowable lot coverage from ten (10) percent to fifteen (15) percent in order to allow an addition to the existing residence in the A-1 (Agricultural) zoning district. The site is located southeast of the southeast corner of 67th Avenue and

Thunderbird Road (13327 North 65th Drive) and is in the Sahuaro District. Staff Contact: Martin Martell, Planner.

Martin Martell, Planner, said this is a variance request to allow a reduction in the side yard setback from a required 50' to 15' and an increase of the allowable lot coverage from 10% to 15%. If approved, an expansion of an attached garage will take place. Mr. Martell said the subject property is located on the north side of the cul-de-sac of 65th Drive, just south of Thunderbird Road.

Mr. Martell said the current zoning of the property is A-1, Agricultural. Section 5.106 – Agricultural District Development Standards, Table 1, states that side yards in this district are 50' and have allowable lot coverages of 10%. He said, if approved, a 1,042 square foot garage expansion will occur on the southeast corner of the property on the east side of the existing home.

Mr. Martell said Notification Letters were mailed out on May 1, 2015, to adjacent neighbors and interested parties. The applicant received one inquiry from a neighbor who was concerned about the height of this new garage addition. The applicant informed the neighbor that the new garage addition will maintain the same height as the existing garage, which is less than 20' in height. He said since the public notice was published Planning staff has received one comment by phone voicing their opposition of this variance on the grounds that it is excessive.

Mr. Martell reviewed staff's findings.

1. **There are special circumstances/conditions applicable to this property including its size, shape, topography, location, or surroundings, which were not self-imposed by the owner;**

The subject properties lot size creates a special circumstance that's not imposed by the property owner.

Presently, the lot size of the property is 7 ½ acres, which is far less than the required lot size of 40 acres for parcels in this district. Thus, a 50' side yard setback and only 10% lot coverage would be unrealistic for this property.

2. **Due to the special circumstances, the strict application of the Zoning Ordinance would deprive the property of privileges enjoyed by other properties of the same classification in the same zoning district;**

Several other homes within a 500' radius have side yard setbacks of 15' and allowable lot coverage of 30% and the requested reduction of setbacks would be in keeping with other residences.

The strict application of the Zoning Ordinance would limit a property that is 32.5 acres less than what is standard in this district.

3. **The variance is the minimum necessary to alleviate the property hardship; and**

The requested side yard setback reduction and increase of the maximum lot coverage is the minimum necessary to construct the addition to the garage on this lot. This garage expansion will not impact the neighboring property to east because even with the side yard reduction there will still be 45' between the 2 properties.

4. **Granting the variance will not have a detrimental effect on the property, adjoin property, the surrounding neighborhood, or the city in general.**

The requested building setback and increase of the permitted lot coverage will be practically indiscernible from the street and neighboring properties, many of which reside in the SR-17 Zoning District which allow 15' setbacks and lot coverages of 30%.

Mr. Martell concluded by stating the variance request appears to meet all 4 findings and should be approved. If the Board decides to grant the variance, it shall be subject to the following stipulations:

1. Development shall be in conformance with the approved narrative and site plan, dated June 30, 2015.
2. The proposed garage addition shall be attached and constructed with the same material and colors as the existing home.

Mr. Martell said he was available for questions.

Chairperson Toops called for questions from the Board.

Board member Zarra asked for clarification in "excessive reduction in standards". Mr. Martell said that comment was received from someone who contacted the Planning Division. The caller did not identify himself.

In response to a question from Board member Feiner, Mr. Martell said this is the last remaining property zoned Agricultural.

Board member Dietzman asked if the properties on 65th Avenue were zoned Agricultural at one time. Mr. Martell said yes.

Chairperson Toops called for the applicant.

Mr. Sheldon Shaw, applicant, introduced himself stated he received one call regarding his email address. He explained the addition will not be visible from the street.

Board member Feiner asked if nearby property owners contact the city. Mr. Martell said those who did contact him did not indicate where they resided.

Board member Dietzman asked if there is a perimeter fence around the property. Mr. Martell said there is a six foot wall around the property.

Board member Dietzman asked if the garage would be 20 feet tall. Mr. Martell said it would be between 15 and 20 feet tall and match the existing building.

Chairperson Toops opened the public hearing. With no one wishing to speak, Chairperson Toops closed the public hearing.

Board member Dietzman asked if he would be building an addition garage for additional vehicles. Mr. Shaw said yes.

Board member discussed how approval of this request might impact the adjacent neighbor. Mr. Shaw indicated the most impacted neighbor is the property owner's daughter. She owns the adjacent home.

Based on the facts and evidence presented, Mr. Russ Romney, Deputy City Attorney, requested a vote from the Board. He read each finding and waited as the Board responded.

Finding One. Chairperson Toops called for a voice vote on Finding One. The Board responded with a vote of 5 to 1 (Feiner) in favor.

Finding Two. Chairperson Toops called for a voice vote on Finding One. The Board responded with a vote of 5 to 1 (Feiner) in favor.

Finding Three. Chairperson Toops called for a voice vote on Finding One. The Board responded with a vote of 4 to 2 (Vescio, Dietzman) in favor.

Finding Four. Chairperson Toops called for a voice vote on Finding One. The Board responded with a vote of 5 to 1 (Feiner) in favor.

Mr. Romney asked, based on the findings, if the Board wished to grant variance VAR15-12, subject to the two stipulations set forth by the Planning Division.

BOARD MEMBER ZARRA MADE A MOTION TO APPROVE VAR15-12 SUBJECT TO STIPULATIONS LISTED IN THE STAFF REPORT. BOARD MEMBER BLAKELY SECONDED THE MOTION, WHICH WAS APPROVED WITH A VOTE OF 4 TO 2 (FEINER, DIETZMAN).

OTHER BUSINESS FROM THE FLOOR

Chairperson Toops called for Other Business From The Floor. There was none.

PLANNING STAFF REPORT

Chairperson Toops called for the Planning Staff Report. There was none.

BOARD COMMENTS AND SUGGESTIONS

Chairperson Toops called for Board Comments and Suggestions. There were none.

NEXT MEETING: October 8, 2015

ADJOURNMENT

Chairperson Toops called for a motion to adjourn.

BOARD MEMBER DIETZMAN MADE A MOTION TO ADJOURN. BOARD MEMBER ZARRA SECONDED THE MOTION, WHICH WAS APPROVED UNANIMOUSLY.

THE MEETING CONCLUDED AT 4:34pm.