

Meeting Minutes

Board of Adjustment

Regular Meeting

December 14, 2022 | 6:00 p.m.
Chandler City Council Chambers
88 E. Chicago St., Chandler, AZ



Call to Order

The meeting was called to order by Chairman Vasquez at 6:00 p.m.

Roll Call

Board Member Attendance

Chairman Vasquez
Board Member Ramirez
Board Member Wakefield
Board Member Ryan
Board Member Henderson

Staff Attendance

David de la Torre, Planning Manager
Harley Mehlhorn, City Planner
Darsy Olmer, Associate Planner
Thomas Allen, Assistant City Attorney
Julie San Miguel, Clerk

Absent

Vice Chairman Ouellette
Board Member Vasquez Houston

Pledge of Allegiance

The Pledge of Allegiance was led by Board Member Ryan.

Scheduled and Unscheduled Public Appearances

Members of the audience may address any item not on the agenda. State Statute prohibits the Board or Commission from discussing an item that is not on the agenda, but the Board or Commission does listen to your concerns and has staff follow up on any questions you raise.

Consent Agenda and Discussion

1. Regular Meeting Minutes of April 13, 2022, Board of Adjustment

Move Board of Adjustment approve Board of Adjustment Regular Meeting Minutes of April 13, 2022.

CHAIRMAN VASQUEZ confirmed there were no questions or comment from the Board Members.

Consent Agenda Motion and Vote

BOARD MEMBER RYAN moved to approve the Consent Agenda of the April 13, 2022, Board of Adjustment Regular Meeting; Seconded by BOARD MEMBER WAKEFIELD.

Motion carried unanimously (5-0).

Action Agenda Item No. 2 and Discussion

2. PLH22-0042 HAUBOLD RESIDENCE

DARSY OMER, ASSOCIATE PLANNER presented details regarding the request for a variance from Zoning Ordinance to allow encroachment into the required setbacks on property located at 171 S. Willow Creek Street, generally located north of Frye Road and approximately ¼ mile west of Cooper Road

THOMAS HAUBOLD, APPLICANT introduced himself and stated the request for variance is for a standalone pergola located in the back yard that is not attached to the house or block wall. He stated the pergola is 1.5-feet away from the house, 1.2-feet away from the rear wall, is 31-feet wide and stands at 8 feet tall. He explained that the pergola is not a hazard to his or the adjacent properties and is not detrimental to any other property, person, or welfare of the community. He presented an aerial image of the property, presented statements regarding the dimensions of the property and stated the setbacks for the property are 5-feet on the side and 10-feet on the rear. He explained that the reason for the setbacks are for health and safety and to create open space between structures. He presented statements regarding setbacks he found online, however upon showing these to staff, they stated that these setbacks do not apply to his property. He pointed out there are no ordinances in Chandler that list the minimum setbacks for single family residential and that the Chandler Residential Standards adopted May 23, 2002 does not apply to his property because the property was built prior to these standards and the size does not meet the minimum size requirements listed. He asked why the City does not have a single ordinance for single family residential setbacks if they are required for the health and safety and to establish open air space between buildings. He stated that something so crucial should be applied to all single-family residential developments across the board and this is not the case as many new communities only have 7-feet between them on the sides and 10-feet in

the rear. He asked what would the setback be in such a small space. He stated that staff provided him the ordinance for detached buildings and structures in residential zoning districts and read it aloud to the Board Members. He stated based on this ordinance he could have several pergolas no larger than 150-square feet if they were 1-foot away from each other and have a 5-foot setback. He stated there is no rhyme or reason and nothing seems to be consistent with Chandler's regulations. He stated the properties east and west have no issues with the pergola and they have been resold several times and this has not affected their property value. He stated the property south of the house is zoned AG-1 and the pergola was built prior to the property being sold and developed, it is his understanding if he was against an open field or a street there would not be a 10-foot setback requirement and emphasized as the pergola was built prior to the development this should be the case. He presented images of the property south of his, the pergola, and backyard. He explained the space consists of an outdoor cooking area seating and dining area, that can be used all year round. He stated this area is used by their son who cannot be in public due to health conditions and a meeting place for the nonprofit Under The Shied which provides necessary services to first responders and their families. He presented images of the shade value if the pergola met the setbacks and stated it would not be worth having a pergola as they would lose half of the shade. He explained that he tried to explore other options and asked staff if he could use fabric for the shade structure instead and he was told fabric would still count as a structure. He pointed out that newer builds that have smaller setbacks and spaces between the houses and questioned why the City is not consistent. He stated the granting of this variance is necessary for the preservation and enjoyment of his property rights and by granting this variance there would not be materially detrimental to persons, property, or the public welfare of the community. He asked the Board to grant his variance for these reasons and stated there are three neighbors present and eight letters in support of this case.

BOARD MEMBER RYAN pointed out that the Applicant mentioned that when the pergola was built, that the setback was different because of what is on the other side of the fence, he asked if staff looked into this issue.

DAVID DE LA TORRE, PLANNING MANAGER stated the structure would not have met setback requirements and it would not have been in compliance. He explained the section of the code that the Applicant is referring to states if you have a ramada that is 150 square feet or less and there is a private or public open space on the other side of that property line; it can be at zero setback. He further explained, the issue is there was never a public or private open space, and the area was a privately owned property that did not have anything built on it. He clarified it was not designated as private or public open space, therefore, that portion of the code does not apply, and it was never in compliance.

BOARD MEMBER RYAN asked the Applicant what is unique about the property that does not also apply to the houses on your left or your right, he further asked if there were any special circumstance that applied to the property.

THOMAS HAUBOLD, APPLICANT stated the property to the east is a two-story home with a larger backyard, so they could build a 150 square foot pergola and comply with the setbacks but his property is unique because of the size of his yard. He further stated the house on the other side has a similar build to his house.

BOARD MEMBER RYAN explained in order to be granted a variance the three criteria must be met; 1) A special circumstance or condition that applies to the property and is not self-imposed. 2) The variance is necessary for the preservation and enjoyment of substantial property rights. 3) The variance will not materially be detrimental to persons, property, or the public welfare of the community. He emphasized that the request does not have a special circumstance or condition that applies to the property.

THOMAS HAUBOLD, APPLICANT asked why the City does not have one setback across the board for all single-family residences.

BOARD MEMBER RYAN asked staff where can setback requirements be found.

DAVID DE LA TORRE, PLANNING MANAGER stated that setbacks are found in the PAD Zoning documents.

BOARD MEMBER RYAN asked if they can be found in the City Code.

DAVID DE LA TORRE, PLANNING MANAGER stated this cannot be found in the code as PADs are similar to custom zoning districts with different setbacks

CHAIRMAN VAZQUEZ asked if anyone from the audience would like to speak and invited them to come forward.

TRACY HAUBOLD, APPLICANT stated when the pergola was built there was an open field and asked why the pergola was not in compliance.

DAVID DE LA TORRE, PLANNING MANAGER stated the pergola was not compliant because the zoning code mentioned applies to public or private open space and the space behind the property was not designated as open space, it was private owned property that was not developed.

CHAIRMAN VAZQUEZ confirmed there were no further questions or comments from the Board Members.

Action Agenda Item No. 2 Motion and Vote

BOARD MEMBER RYAN moved to deny PLH22-0042, a request for variance from Zoning Ordinance to allow encroachment into the required setbacks on property located at 171 S. Willow Creek Street; Seconded by BOARD MEMBER HENDERSON.

Motion carried unanimously (5-0)

THOMAS HAUBOLD, APPLICANT asked if he has any recourse in regarding to the decision made this date.

CHAIRMAN VASQUEZ stated there is an appeals process.

DAVID DE LA TORRE, PLANNING MANAGER stated he will talk to the Applicant after the meeting to let him know about the appeals process and his options.

Member Comments/Announcements

None.

Calendar

Meetings will be scheduled as needed and are held the second Wednesday of the month at 6:00 p.m., unless advertised differently.

Adjourn

The meeting was adjourned at 6:34 p.m.



Kevin Mayo, Secretary

Chairman