

Meeting Minutes

Board of Adjustment

Regular Meeting

December 13, 2023 | 6:00 p.m.
Chandler City Council Chambers
88 E. Chicago St., Chandler, AZ



Call to Order

The meeting was called to order by CHAIR RYAN at 6:01 p.m.

Roll Call

Board Member Attendance

Chair Ryan
Vice Chair Henderson
Board Member Ramirez
Board Member Wakefield
Board Member Phillips
Board Member Ouellette

Staff Attendance

David de la Torre, Planning Manager
Mika Liburd, Associate Planner
Thomas Allen, Assistant City Attorney
Julie San Miguel, Clerk

Absent

N/A

Pledge of Allegiance

The Pledge of Allegiance was led by Board Member Ramirez.

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 November 8, 2023, Board of Adjustment

Move Board of Adjustment approve Board of Adjustment Regular Meeting Minutes of November 8, 2023.

CHAIR RYAN confirmed there were no questions or comments from the Board Members regarding this item.

Consent Agenda Motion and Vote

BOARD MEMBER WAKEFIELD motioned for approval of this item, seconded by BOARD MEMBER PHILLIPS.

Motion carried unanimously (5-0).

Action Agenda Item No. 2 and Discussion

3. PLH23-0054 BERGLUND RESIDENCE

Request variance from Zoning Ordinance to allow encroachment into the required side setbacks on property located at 2310 E Folley St, generally located south of Frye Road and approximately ¼ mile east of Cooper Road.

MIKAYELA LIBURD, CITY PLANNER, presented PLH23-0054 to the Board. This item was continued from the November 8, 2023, meeting. The request is to allow encroachment in the required setbacks. MS. LIBURD reviewed the current zoning and current setbacks for this property as well as the applicant's requested setbacks to be 0 feet on the west and 2 feet on the east.

Staff reviewed the criteria that would be required for this request. MS. LIBURD reported that staff did not find any special circumstances that apply to this property that do not equally apply to other properties in the neighborhood. There are no constraints on this property. Additionally, staff provided two alternative solutions that do not encroach in the minimum required setbacks.

MS. LIBURD stated that earlier in the year, the alley to the north and the west of the property was abandoned and thus absorbed by the applicant, creating additional square footage to the lot.

MS. LIBURD noted that the variance would not be detrimental to the welfare of the community.

Notice of the variance public hearing was posted at the residence and three general inquiries have been received by staff.

Staff finds that the request does not meet the criteria for approval and denial is recommended.

CHAIR RYAN asked if MS. LIBURD could bring back the slide with the proposed alternative options that the applicant was given by staff. MS. LIBURD pulled up the slides. CHAIR RYAN clarified that the idea was that the garage could be accessed from the west where the city alley previously was, so it would create an "L Shape."

MS. LIBURD stated that was correct.

CHAIR RYAN invited the applicant to speak.

DONALD BERGLUND, APPLICANT, shared that the alternative options provided were not their plan for the property and that they wish to have a standard two car garage built at the front of their house. MR. BERGLUND noted that there is no neighbor directly on that side of their home and that they collected signatures of support from their neighbors. MR. BERGLUND shared that the other building would be an extension of living space with a separate entrance for Mr. Berglund's father.

VICKI BERGLUND, APPLICANT stated that the reason that they acquired the alley is because it was a place that had a lot of crime and it was serving no purpose. She stated they have lived in this house since 2019 and that the residence was "an eyesore" and that they wish to improve it.

MS. BERGLUND pointed out the aluminum awning that was constructed on the east side of the home. She reported it cost \$7,000 and that they went with aluminum for safety. She also shared that they did speak with their immediate neighbors, Monroe and Emily Yatra about the awning as well and that they do not have a problem with it.

MS. BERGLUND shared that with the alternative solutions provided by MS. LIBURD, it would be "a headache" to have a garage all the way in the back and that the family does wish to have a pool in their backyard one day.

CHAIR RYAN inquired if there were any questions from Board Members.

BOARD MEMBER WAKEFIELD asked if the applicants had considered swapping the space in the garage or making the additional living space in the new space rather than the garage.

MR. BERGLUND stated that it was considered but would require a structural engineer.

BOARD MEMBER WAKEFIELD stated that if it was an independent structure, it would still need to be designed by a structural engineer.

MR. BERGLUND stated that it would not require a structural engineer for only the garage door and the trusses.

BOARD MEMBER WAKEFIELD clarified that if the applicant took the space that was available where they proposed having the garage and shorten it up a little bit, it would require the same engineering as well as the same interior features, so perhaps the concepts could be swapped.

MR. BERGLUND stated that it would be more costly to get plumbing and electrical to that part of the yard.

CHAIR RYAN reviewed that the Board of Adjustment does have restrictions on what they can and cannot approve based on the ordinance and state law. He stated that there are criteria that must be satisfied or the Board cannot and shall not approve the requested variance.

The first criteria reviewed was special circumstances. CHAIR RYAN asked the applicant what special circumstances or conditions apply to the land, the building or the use referred in the application.

MS. BERGLUND stated that the park being on the side of the house was a special circumstance.

CHAIR RYAN stated he assumed that is what the applicant would say, noting there is no neighbor on that side of the property to complain.

MS. BERGLUND stated that she did look all around the surrounding area and it would not obstruct views.

CHAIR RYAN asked how that is a special circumstance that applies to only their lot and not the others in the area?

MR. BERGLUND stated that it was their land and the special circumstance discussed was the park and that they do not have direct neighbors and that he was unsure of how else to answer the question.

CHAIR RYAN then mentioned another criteria of preservation and enjoyment, stating that there was an alternative place that a garage could be placed without violating the setbacks, but that the applicant does not want to do so. CHAIR RYAN asked the applicant how is putting the garage where the applicants want to instead of where the City is suggesting is necessary to preserve property rights?

Applicants were in agreement that it would look better to have the garage where they preferred it to be built and not in the back.

CHAIR RYAN also mentioned that there are criteria that stated that the zoning variance is not something you have created yourself but is inherited with the property. CHAIR RYAN asked how that would be satisfied.

MR. BERGLUND stated that this was not strictly about desire, but that they need to build something for his father to move into and have a private area for himself to continue to live semi-independently.

CHAIR RYAN asked for any further questions or comments from the Board members.

BOARD MEMBER OUELETTE wanted clarification on the concept. He stated that the options the applicant had were provided by staff. He inquired why the living space could not be put in the back of the yard and asked if the applicants had considered that, stating that there was not a constraint on the land so that you could never do anything different with the property. He noted that there is nothing that prohibits them with an example of a gigantic overhead power easement that they would be unable to make the provided alternative options work. He stated there was feasibility to do something different than the original proposed concept that would be in line with the setbacks provided. He stated that this does not meet the test for a variance.

MR. BERGLUND stated that they did consider the living quarters in the back and that it would be a factor in cost because they would have to run plumbing back there.

BOARD MEMBER OUELETTE inquired that it would be similar to running plumbing back there if they wanted a pool as they previously mentioned.

MR. BERGLUND stated that the pool is just a dream and may not happen and is not the top priority for the family at this time.

CHAIR RYAN stated that the applicant collected letters and signatures from neighbors and while that was great to have neighbors support, the criteria required was not satisfied. He reiterated that solutions were offered by the city and that they may be more expensive but that if the criteria was not met, then the Board's "hands were tied."

MS. BERGLUND asked about the awning on the east side of the property.

DAVID DE LA TORRE, PLANNING MANAGER, clarified with the Board that the request was for the new garage and the existing awning.

CHAIR RYAN sympathized with the applicants, understanding they had things they wished to do and that he was relieved the city found alternative solutions for them in this instance, as there is not always an alternate option. He shared that there are some instances where there is no solution and people build things without approval and have to take them down.

MR. BERGLUND thanked the Board for taking the time to hear the applicant's request.

MS. BERGLUND asked about the awning, inquiring about the reason why they have setbacks to a certain distance.

MR. DE LA TORRE stated that the purpose of setbacks is twofold. One for safety and fire purposes, so that fire would not transfer from one property to another, but also for enjoyment and open space between residences, so that they are not right on top of one another.

MS. BERGLUND agreed that they thought they did have the space open enough, based on what they read of the definitions and that they spoke with their direct neighbors. MS. BERGLUND asked what they could do to keep the awning.

CHAIR RYAN deferred to MS. LIBURD.

MS. LIBURD stated that the awning is attached to the house, so it would have to follow the SF 8.5 zoning requirements.

MS. BERGLUND asked if the awning was detached then would it resolve the issue, saying that they could see about putting it on columns and have it detached from the home.

MS. LIBURD stated that this would depend on the square footage of the awning. She stated if it was 150 square feet then it would have a 5-foot setback.

MR. DE LA TORRE stated that staff could consider it an open-air ramada if it's detached from the house and no more than 150 square feet and that then it could be as close as 5 feet to the property line in that case. He reported they could work with the applicant on that.

CHAIR RYAN stated he hoped that would work out for the applicants.

MS. BERGLUND asked if they could not build anything further until that was corrected.

MS. LIBURD stated that if structures were in violation, they may not be able to get permits to build anything further.

MR. BERGLUND stated they would get that taken care of one way or another.

CHAIR RYAN asked for any questions or comments from the board, staff or the applicants.

BOARD MEMBER WAKEFIELD motioned to deny the variance request for 2130 E Folley Street. BOARD MEMBER PHILLIPS seconded the motion. Motion approved unanimously.

MR. BERGLUND thanked the Board for their time. MS. BERGLUND asked if staff could repeat the maximum size for the awning.

MR. DE LA TORRE stated it would be 150 square feet maximum and 10 feet tall maximum height and that could be as close as 5 feet to the property line.

CHAIR RYAN thanked staff and applicants and wished everyone Happy Holidays. CHAIR RYAN reminded everyone that Board of Adjustment meetings are held as needed on the second Wednesday of the month at 6pm.

Action Agenda Item No. 2 Motion and Vote

BOARD MEMBER WAKEFIELD moved to deny PLH23-0054 BERGLUND RESIDENCE; Seconded by BOARD MEMBER PHILLIPS.

Motion carried unanimously.

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 6:36 p.m.



David de la Torre, Secretary

Chair Jim Ryan