

**DRAFT MINUTES
BOARD OF ADJUSTMENT
COUNCIL CHAMBERS
5850 W. GLENDALE AVENUE
GLENDALE, ARIZONA 85301**

**THURSDAY, MAY 14TH, 2020
4:00 PM**

CALL TO ORDER

The meeting was called to order at 4:00 PM.

ROLL CALL

Committee members present: Vice Chair Cathy Cheshier, Lawrence Feiner, Kyle Holschlag, Benjamin Naber, and Brian Britton were present.

Committee members absent: Chairperson Erminie Zarra was absent and excused.

City staff present: Lisa Collins (Interim Development Services Director), Samantha Cope (Administrative Support Staff), Christina LaVelle (Planner), Thomas Ritz (Senior Planner), and Russ Romney (Deputy City Attorney).

CITIZEN COMMENTS

Vice Chair Cheshier asked for citizen comments, and no citizen comments were made.

APPROVAL OF THE MINUTES

A motion to approve the April meeting minutes was made by Mr. Britton and seconded by Mr. Feiner. All were in favor.

WITHDRAWALS AND CONTINUANCES

There were no withdrawals or continuances at this meeting.

PUBLIC HEARING ITEMS

A. VAR19-08 CANCIO RESIDENCE VARIANCE: A request by David Chavez of NEAH Designs on behalf of Ernesto Cancio to allow a rear yard setback of 11 feet where 15 feet is required in the R1-6 (Single Residence) zoning district. The purpose of the variance is to allow a portion of an existing rear patio constructed without permits to remain. The site is located at 4519 West Myrtle Avenue in the Cactus District. Staff Contact: Thomas Ritz, 623-930-2588, tritz@glendaleaz.com.

Staff Findings

The Board of Adjustment must analyze four findings based on the evidence in the record prior to granting a variance. Each finding is presented below along with staff's analysis.

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

owner;

Staff finds that there are no applicable conditions or special circumstances existing on the property. The lot meets the district development standards for size, width, and length.

The construction of the rear patio without permits is a special circumstance self-imposed by the property owner. The construction and occupation of the home without the additional patio which encroaches on the required rear yard setback appears to staff to demonstrate the lack of special circumstances or conditions applicable to the property.

This is a self-imposed hardship because the applicant is aware of the required setback. The applicant provided a site plan which proposes that the rear yard covered patio continue to be located within 11 feet of the rear property line, where 15 feet is required. There are no special circumstances or conditions applicable to the property that has changed since the house was originally built. The present proposal represents creation of a special condition self-imposed by the property owner.

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;

The strict application of the Zoning Ordinance would prohibit the continued placement of the covered patio on the site; however, the same setback requirement on this property imposed by the Zoning Ordinance on this property prohibits this setback distance on other R1-6 zoned properties throughout the city. The Ordinance does not deprive the property of privileges enjoyed by other properties of the same classification in the same zoning district.

The strict application of the Zoning Ordinance, in staff's view, would not deprive the property of privileges enjoyed by other properties of the same classification in the same zoning district. The house, minus the rear patio constructed without permits, enjoyed the same privileges enjoyed by other properties of the same classification in the same zoning district.

The strict application of the Zoning Ordinance would require that all setbacks conform to the requirements of the Zoning Ordinance for this residential zoning district. The property owner could have chosen to follow the zoning ordinance with regard to the rear yard setback, rather than constructing the addition without reviewing the City's development standards or participating in the review process first. This rear covered patio was constructed without city permits. The Zoning Ordinance does not prevent the applicant from enjoying the privileges enjoyed by other properties of the same classification in the zoning district.

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

No special circumstances or conditions exist on the property that were not considered when the present house was originally built. The variance requested goes beyond the minimum necessary to construct a house on the property. The use of the property as a home is existing, and not proposed to be modified as part of this variance request. The requested variance is not the result of a property hardship but one of personal preference for encroachment into the setback.

The applicant's proposal reduces the existing covered patio built without permits to maintain an 11 foot rear yard setback where a 15 foot rear yard setback is required. The variance is not the minimum necessary to alleviate a property hardship that does not exist.

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 building setbacks are not consistent with other properties in the surrounding area. The City of Glendale Zoning Ordinance provides for required setbacks for single-family homes in the R1-6 zoning district.

The granting of the variance, in staff's view, will have a detrimental effect on the adjacent properties, the surrounding neighborhood, and the city in general. The zoning ordinance, including the designation of zoning districts with minimum setback distance requirements, is designed to protect the health and safety of the residents of the city and establish performance standards for development in the various zoning districts of the city.

The rear yard setback proposed is out of character with other homes in the neighborhood. The existing residents of the neighborhood have relied on the requirements of the existing zoning requirements in purchasing their homes and living in the neighborhood. The existing covered patio encroaches into a required setback area also required of neighboring properties for their additions.

The patio does not have an approved building permit. Therefore, the City has not verified the condition of safety and compliance to building codes.

Citizen comments from the neighbors notified during the public hearing process also reflect the view that granting this variance will have a detrimental effect on the neighborhood.

Recommendation: The variance request does not appear to meet all four findings and should not be approved. If the Board decides to grant the variance, it should be subject to the following stipulation:

1. Development shall be in conformance with the applicant's narrative, site plan materials, and letter to the Board of Adjustment, dated February 5, 2020.

Proposed Motion: Move to approve VAR19-08 per the findings and subject to the stipulation contained in the staff report.

Mr. Ritz explained that this was an existing patio that they built an addition to without a permit. Chair Cheshier asked what the variance was for. Mr. Ritz explained that it would be for less of an encroachment. The applicant explained they built a cover over it to block the view of their children from the neighboring 3-story complex.

Vice Chair Cheshier opened the public hearing, and with no comments made, she immediately closed the public hearing.

After the public hearing closed, the board voted per each finding with the help of Mr. Romney.

1. Mr. Feiner, Mr. Naber, Mr. Britton, Mr. Holschlag, and Vice Chair Cheshier all vote "no."

Mr. Romney stated given the board's vote on this first finding they cannot move forward with the other findings, and per the statute the variance is automatically denied.

B. VAR19-17 ZANC RESIDENCE VARIANCE: A request by Dorin Pitut on behalf of Daniel Zanc to reduce the required rear yard setback to 40 feet where 50 feet is required in the A-1 (Agricultural) zoning district, to reduce the required front yard setback to 40 feet where 75 feet is required, reduce the required side yard setbacks to 20 feet where 50 feet is required, and increase the lot coverage to allow 25 percent where 10 percent is permitted. The purpose of the variance is to allow additions to the existing home and a new detached RV garage. The site is located at 10823 North 59th Avenue in the Barrel District. Staff Contact: Thomas Ritz, 623-930-2588, tritz@glendaleaz.com.

Staff Findings

The Board of Adjustment must analyze four findings based on the evidence in the record prior to granting a variance. Each finding is presented below along with staff's analysis.

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

The setback and lot coverage requirements of the A-1 (Agricultural) zoning district, coupled with the size of the lot creates a special circumstance not self-imposed by the property owner. The construction of building additions and an RV garage requires some level of relief. The applicant is proposing setback and lot coverage requirements which match those in the SR-30 (Suburban Residence) zoning district, a zoning classification which requires a minimum lot size of 30,000 square feet, similar to the lot size of this property.

The surrounding neighborhood is developed with a variety of lot coverages and setbacks, many that do not meet the current A-1 lot coverage and perimeter setback requirements.

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;

The strict application of the Zoning Ordinance would limit the property to smaller setbacks for any proposed addition to the home and the lot coverage requirements would not permit the applicant's proposed additions and RV garage.

Other properties of the same size in the A-1 zoning district that have desired additional lot coverage and similar setback relief have also had to seek relief through the variance process. Several of the properties in the neighborhood have setbacks that are similar to those proposed by the applicant.

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

The requested setbacks and lot coverage are necessary to construct the building additions and RV garage desired by the applicant.

The applicant does not propose to reduce the side yard setback to less than what it is presently, rather, the additions will encroach no more into the existing side yard setbacks than the home does presently.

All other proposed development standards are in conformance with current A-1 zoning requirements.

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 building setbacks are consistent with other residential properties in the surrounding area and will not detrimentally affect any neighboring properties.

RECOMMENDATION

The variance request appears to meet all four findings and should not be approved. If the Board decides to grant the variance, it should be subject to the following stipulations:

1. Development shall be in conformance with the applicant's narrative and site plan materials (sheets S1, A1, and A2) date stamped March 30, 2020.
2. All mechanical equipment shall be ground mounted.
3. All new utility lines on or adjacent to the site shall be undergrounded.

PROPOSED MOTION

Move to approve VAR19-17 per the findings and subject to the stipulations contained in the staff report.

Vice Chair Cheshier opened the public hearing, and with no comments made, she immediately closed the public hearing.

After the public hearing closed, the board voted per each finding with the help of Mr. Romney.

1. Mr. Feiner, Mr. Naber, Mr. Britton, Mr. Holschlag, and Vice Chair Cheshier all vote "aye."
2. Mr. Feiner, Mr. Naber, Mr. Britton, Mr. Holschlag, and Vice Chair Cheshier all vote "aye."
3. Mr. Feiner, Mr. Naber, Mr. Britton, Mr. Holschlag, and Vice Chair Cheshier all vote "aye."
4. Mr. Feiner, Mr. Naber, Mr. Britton, Mr. Holschlag, and Vice Chair Cheshier all vote "aye."

Mr. Feiner made a motion to approve the variance (subject to stipulations), and it was seconded by Mr. Britton. All voted "aye" in favor, and none opposed. Variance granted.

C. VAR20-01 - 61ST AVENUE RESIDENCE VARIANCE: A request by Jon M. Froke of Jon M. Froke Urban Planning LLC on behalf of TMG Investment Properties LLC to reduce the required side yard setbacks to 5 feet on one side and 10 feet on the other side where 20 feet is required in the R-3 (Multiple Residence) zoning district. The purpose of the variance is to allow the construction of a new single-family custom home. The site is located at 6707 North 61st Avenue in the Ocotillo District. Staff Contact: Thomas Ritz, 623-930-2588, tritz@glendaleaz.com.

Staff Findings

The Board of Adjustment must analyze four findings based on the evidence in the record prior to granting a variance. Each finding is presented below along with staff's analysis.

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

The width of the lot creates a special circumstance not self-imposed by the property owner. The construction of a new home requires some level of relief. The surrounding neighborhood is developed with a variety of side-yard setbacks, many that do not meet the current R-3 perimeter setbacks.

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;

The strict application of the Zoning Ordinance would limit the property to twenty (20) foot side setbacks and limit the type of housing product due to total width. Several of the properties in the neighborhood have setbacks that are similar to those proposed by the applicant.

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

The requested side setbacks are the minimum necessary to construct a typically sized single-family residential home on the lot. The minimum lot area is under the required minimum lot area, front and rear setbacks, maximum lot coverage, and minimum lot width and depth are in conformance with current R-3 zoning requirements.

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 building setbacks are consistent with other properties in the surrounding area and will not detrimentally affect any neighboring properties.

RECOMMENDATION

The variance request appears to meet all four findings and should be approved. If the Board decides to grant the variance, it should be subject to the following stipulations:

1. Development shall be in conformance with the applicant's development materials dated March 17, 2020.
2. All mechanical equipment shall be ground mounted.
3. All new utility lines on or adjacent to the site shall be undergrounded.

PROPOSED MOTION

Move to approve VAR20-01 per the findings and subject to the stipulations contained in the staff report.

Vice Chair Cheshier opened the public hearing, and with no comments made, she immediately closed the public hearing.

After the public hearing closed, the board voted per each finding with the help of Mr. Romney.

5. Mr. Feiner, Mr. Naber, Mr. Britton, Mr. Holschlag, and Vice Chair Cheshier all vote "aye."
6. Mr. Feiner, Mr. Naber, Mr. Britton, Mr. Holschlag, and Vice Chair Cheshier all vote "aye."
7. Mr. Feiner, Mr. Naber, Mr. Britton, Mr. Holschlag, and Vice Chair Cheshier all vote "aye."
8. Mr. Feiner, Mr. Naber, Mr. Britton, Mr. Holschlag, and Vice Chair Cheshier all vote "aye."

Mr. Naber made a motion to approve the variance (subject to stipulations), and it was seconded by Mr. Britton. All voted "aye" in favor, and none opposed. Variance granted.

D. VAR20-02 SCANDINAVIAN DESIGNS SIGN VARIANCE: A request by Abigail Hall to exceed the maximum sign allowance to 413.53 square feet from 200 square feet as required in the North Valley Development (PAD) Master Sign Plan. The site is located at 7540 W Bell Road in the Sahuaro District. Staff Contact: Christina LaVelle, 623-930-2533, clavelle@glen-daleaz.com.

Staff Findings

The Board of Adjustment must analyze four findings based on the evidence in the record prior to granting a variance. Each finding is presented below along with staff's analysis.

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

The location of the building is approximately 400 feet from Bell Road and within the interior of the Planned Area Development (PAD). The location has a special circumstance because the existing signage has limited visibility from Bell Road and no visibility from 75th Drive or south-east Mall Drive. Allowing additional signage on the west and northern walls would provide

greater visibility for the business and would relieve the hardship.

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;

The adjacent tenant space enjoys three large signs that are on the north, west, and south elevations. Allowing the applicant increased square footage for signage would provide the applicant the opportunity to enjoy the same privilege that the adjacent tenant spaces enjoy and to be able to advertise their business effectively.

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

The tenant space is deep within the interior of the PAD. The 200 square foot sign limitation reduces the ability of the applicant to have effective advertising for the business. The existing sign, which faces Bell Road, compliments the size and scale of the tenant space and is moderately visible. Reducing the size of the existing signage to accommodate the additional signage would compound the visibility issues from Bell Road. In addition, the existing signage is not visible from North 75th Drive or West Southeast Mall Drive. To effectively advertise the business, the business needs to have visibility from North 75th Ave and West Southeast Mall Drive. This would require additional wall signage on the north and west walls of the building. Increasing the maximum square footage allowance for signage would provide the applicant the opportunity to advertise their business effectively and would alleviate the hardship.

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

The tenant space is located within the interior of the PAD and the proposed signage is approximately one-quarter mile from any residential properties. On the eastern wall, the proposed signage faces a tenant's wall without windows. The proposed signage to the north faces South East Mall Drive and there is approximately 400 feet between the proposed signage and the building to the north (Big Lots). Moreover, the adjacent and surrounding tenant spaces and properties are zoned C-2 (General Commercial) and have an expectation of signage on multiple walls within the PAD. It is not anticipated that an increase in signage allowance will impact surrounding properties or the City in general.

RECOMMENDATION

The variance request appears to meet all four findings and should be approved. If the Board decides to grant the variance, it should be subject to the following stipulation:

1. Development shall be in substantial conformance with the applicant's site plan, and building elevations, dated February 25, 2020.

PROPOSED MOTION

Move to approve VAR20-02 per the findings and subject to the stipulation contained in the staff report.

Vice Chair Cheshier opened the public hearing, and with no comments made, she immediately closed the public hearing.

After the public hearing closed, the board voted per each finding with the help of Mr. Romney.

1. Mr. Feiner, Mr. Naber, Mr. Britton, Mr. Holschlag, and Vice Chair Cheshier all vote “aye.”
2. Mr. Feiner, Mr. Naber, Mr. Britton, Mr. Holschlag, and Vice Chair Cheshier all vote “aye.”
3. Mr. Feiner, Mr. Naber, Mr. Britton, Mr. Holschlag, and Vice Chair Cheshier all vote “aye.”
4. Mr. Feiner, Mr. Naber, Mr. Britton, Mr. Holschlag, and Vice Chair Cheshier all vote “aye.”

Mr. Britton made a motion to approve the variance (subject to stipulations), and it was seconded by Mr. Naber. All voted “aye” in favor, and none opposed. Variance granted.

STAFF REPORT

Ms. Collins did not have a staff report.

BOARD COMMENTS AND SUGGESTIONS

No other business, board comments, or suggestions were made.

NEXT MEETING

The next meeting will take place on Thursday, June 11th, 2020, at 4 PM.

ADJOURNMENT

Mr. Feiner made a motion to adjourn the meeting, and it was seconded by Mr. Britton.