

**DRAFT MINUTES
BOARD OF ADJUSTMENT
COUNCIL CHAMBERS BUILDING
CONFERENCE ROOM B3
5850 W. GLENDALE AVENUE
GLENDALE, ARIZONA 85301**

**THURSDAY, OCTOBER 14, 2021
4:00 PM**

CALL TO ORDER

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

ROLL CALL

Committee members present: Chairperson Cathy Cheshier, Vice Chairperson Benjamin Naber, Brian Britton, Tammy Gee, and Kyle Holschlag were present.

Committee members absent: Larry Feiner was absent and excused.

City staff present: Tabitha Perry (Interim Planning Manager), Samantha Cope (Administrative Support Staff), Alex Lerma (Planner), and Michael Hamblin (Assistant City Attorney).

CITIZEN COMMENTS

Chairperson Cheshier asked for citizen comments, and no citizen comments were made.

APPROVAL OF THE MINUTES

A motion to approve the September 9, 2021 meeting minutes was made by Vice Chairperson Naber and seconded by Mr. Britton. All were in favor.

WITHDRAWALS AND CONTINUANCES

There were no withdrawals or continuances at this meeting.

PUBLIC HEARING ITEMS

A. 5303 WEST BECK LANE VAR21-06: A request by Linda Gonzalez to reduce the required front yard setback from 75' to 40', the rear yard setback from 50' to 25', the west side yard setback from 50' to 15', and the street side yard setback from 50' to 10' as required in the A-1 (Agricultural) zoning district. The purpose of this variance is to allow the construction of a new single-family home. The site is located at 5303 West Beck Lane in the Sahuaro District. Staff Contact: Alex Lerma, Planning Project Manager, 623-930-2810.

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.

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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 building setbacks, many that do not meet the current A-1 development standards.

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 fifty (50) foot side setbacks and deem the lot unbuildable leaving no real building envelope. 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 building setbacks are the minimum necessary to construct the desired residential home on the lot and allow the same privileges received by the other property owners in the subdivision. The proposed residence will comply with the required building height 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 stipulation:

1. Development shall be in conformance with the applicant's project narrative, site plan, building elevations, and floor plan, date stamped June 23, 2021.

Proposed Motion: Move to approve VAR21-06 per the findings and subject to the stipulation contained in the staff report.

Chairperson Cheshier opened the public hearing, and with no comments made, she immediately closed the public hearing as well.

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

1. Mr. Britton, Mr. Feiner, Ms. Gee, Mr. Holschlag, and Chairperson Cheshier all vote, “aye.”
2. Mr. Britton, Mr. Feiner, Ms. Gee, Mr. Holschlag, and Chairperson Cheshier all vote, “aye.”
3. Mr. Britton, Mr. Feiner, Ms. Gee, Mr. Holschlag, and Chairperson Cheshier all vote, “aye.”
4. Mr. Britton, Mr. Feiner, Ms. Gee, Mr. Holschlag, and Chairperson Cheshier all vote, “aye.”

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

B. BLACK ROCK VENTURE VAR21-07: A request by David Dow, Dow Law Office, to reduce the separation between medical marijuana offsite cultivation and infusion locations from the required 5,280 feet to 855 feet. The purpose of the variance is to allow the operation of a new medical marijuana offsite cultivation and infusion facility. The site is located at 5524 North 51st Avenue and 5134 West Missouri Avenue in the Ocotillo District. Staff Contact: Cody White, Senior Planning Project Manager, (623) 930-2805.

Interim Planning Manager Tabitha Perry gave presentation on the above project.

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 property appears to be similar in size, shape and topography to other surrounding properties of the same zoning classification. The subject property is located 855 feet away from another medical marijuana cultivation facility, which has been in operation since 2012.

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 Zoning Ordinance would prevent the applicant from operating a medical marijuana cultivation and infusion business on the property.

The City established regulations for medical marijuana business in 2011, through the adoption of Ordinance Number 2763. This ordinance established a requirement that medical marijuana cultivation and infusion facilities be located in either the M-1 or M-2 zoning districts and be at least 5,280 feet apart from another such use.

Due to the existence of another medical marijuana cultivation facility located 855-feet away

from the subject property, the subject site and surrounding properties are unable to meet the separation requirement established by the Zoning Ordinance.

Other properties of similar zoning classification not located within the required buffer would be able to operate as medical marijuana cultivation or infusion businesses, subject to City approval.

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

Reducing the required separation distance from 5,280 feet to 855 feet would be the minimum amount necessary to alleviate the property hardship.

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

Due to the close proximity of another medical marijuana dispensary offsite cultivation and infusion location, granting the variance may have a detrimental impact on adjoining properties and the surrounding neighborhood. The city adopted ordinance created the distance regulation to ensure there would not be a detrimental impact to the city in general.

PROPOSED MOTION

Move to take action on **VAR21-07** per the findings contained in the staff report.

Chairperson Cheshier opened the public hearing.

Jeffrey Gross, Berry Riddell LLC opposed the application.

Peter Valenzuela supported the application.

Chairperson Cheshier closed the public hearing.

Vice Chairperson Naber made a motion to go into executive session. Mr. Holschlag seconded the motion; all were in favor.

Vice Chairperson Naber made a motion to exit executive session and resume the regular meeting, Mr. Holschlag seconded the motion; all were in favor.

Vice Chairperson Naber made a motion to table the public hearing item to the November 10, 2021 meeting, Ms. Gee seconded the motion; all were in favor.

STAFF REPORT

Ms. Perry did not have a staff report.

BOARD COMMENTS AND SUGGESTIONS

A. CHAIR AND VICE CHAIR RECOMMENDATIONS FOR 2022

Vice Chairperson Naber made a motion to recommend Cathy Cheshier as Chairperson for a 1-year term beginning February 1, 2022. The motion was seconded by Mr. Holschlag; all were in favor.

Mr. Holschlag made a motion to recommend Benjamin Naber as Vice Chairperson for a 1-year term beginning February 1, 2022. The motion was seconded by Ms. Gee; all were in favor.

NEXT MEETING

The next meeting will take place on Thursday, November 10, 2021, at 4 PM.

ADJOURNMENT

Mr. Holschlag made a motion to adjourn the meeting, and it was seconded by Vice Chairperson Naber all vote, “aye.”

Samantha Cope
Recording Secretary

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