



MINUTES

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

**SEPTEMBER 8, 2022
4:00 P.M.**

1. CALL TO ORDER

The Meeting was called to order at approximately 4:20 PM

2. ROLL CALL

Present: Cathy Cheshier, Chair
Brian Britton, Board Member
Lawrence Feiner, Board Member
Tammy Gee, Board Member - VIA ZOOM

Absent: Benjamin Naber, Vice Chair

Also Present: Tabitha Perry, Planning Manager
Russ Romney, Deputy City Attorney
Kevin Kazmerski, Recording Secretary
Joseline Castaneda, Planner
Christina Lavelle, Senior Planner

3. CITIZEN COMMENTS

Chair Cathy Cheshier asked for citizen comments, no comments were made.

4. APPROVAL OF THE MINUTES

Mr. Britton Motioned to approve the August 11, 2022, Minutes.

Mr. Fiener seconded.

Ms. Cheshier called for a vote.

All Voted "Aye".

Motion Passed, 8/11/22 Minutes approved.

5. WITHDRAWALS AND CONTINUANCES

There were no withdrawals or continuances at this meeting.

6. PUBLIC HEARING ITEMS

- a. VAR22-06 - A request for a variance to increase the front yard maximum fence height to six (6) feet for the fence and seven (7) feet for the gate, where a three (3) foot maximum fence height is required in the A-1 (Agricultural) zoning district. The site is located on the north of the northeast corner of 59th Avenue & Peoria Avenue at 10823 North 59th Avenue and is in the Barrel District. Staff Contact: Jonatan Ramirez, Associate Planner, 623-930-2588. Presented by Joseline Castaneda.

FINDINGS:

The Board of Adjustment must analyze two 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 lot creates a special circumstance not self-imposed by the property owner. The lot abuts a major arterial street along 59th Avenue and is adjacent to a commercial property to the south which receives high volumes of foot and car traffic. These high volumes create safety concerns related to trespassing, accumulation of trash, and exposure to noise pollution.

- 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;**

Other neighboring properties within the same zoning district have the privilege of not having a heavily trafficked property frontage along a major arterial street. Other neighboring properties have their frontage along a collector street, which in comparison receives moderate traffic. The strict application of the Zoning Ordinance only allows for an increase in fence height for the side or rear yard from 6 feet to 8 feet when abutting a major arterial street, but not an increase to the maximum front fence height of three (3) feet if it were abutting a major arterial street.

RECOMMENDATION

If the Board decides to grant the variance, it should be subject to the following stipulations:

1. Development shall be in substantial conformance with the narrative, dated June 7, 2022.
2. Development shall be in substantial conformance with the site and elevation plans, date stamped July 27, 2022.

Ms. Cheshier asked the board if there were any questions.

Mr. Britton Asked if the gate was going to be off 59th avenue.

Ms. Castaneda stated, "yes, there is an existing driveway off 59th avenue."

Ms. Cheshier asked about the setback of the fence to the sidewalk and who will maintain it.

Ms. Castaneda replied it would be maintained by the homeowner.

Ms Cheshier asked about the gate setback, what is the City standard and does this plan meet it?

Ms. Castaneda replied, 20 foot is the standard and the Transportation Department has reviewed this case and had no comments.

Ms. Cheshier asked about the fence materials. Block will be four feet and the view fencing two feet?

Ms. Castaneda confirmed this information.

Applicant presented.

Ms Cheshier asked board if there were any questions for the applicant.

Ms. Cheshier asked the applicant about the block height, is it 3 feet or 4 feet.

Applicant replied it will be 4 feet topped with wrought iron view fencing.

Ms. Cheshier asked if the gates were going to be automatic?

Applicant replied yes, and both will open into the property.

Ms. Cheshier opened the public hearing.

Ms. Cheshier asked for public comments, there were no comments.

Ms. Cheshier asked staff for additional comments, there were none.

Ms. Cheshier closed the public hearing.

Ms. Cheshier opened for board discussion. No discussion.

The board voted per each finding with the help of City Attorney Mr. Romney.

Finding 1. - Mr. Finer, Mr. Britton, Ms. Gee and Ms. Cheshire all voted "Aye"

Finding 2. - Mr. Finer, Mr. Britton, Ms. Gee and Ms. Cheshire all voted "Aye".

Mr. Romney asked if the board would like to grant variance 22-06?

Mr. Feiner motioned to grant.

Mr. Britton seconded the motion.

Ms. Cheshier polled the board. All voted "AYE".

Variance VAR22-06 granted.

- b. VAR22-07- A request from Cristina Lozada, representing Processing Multi-Services, LLC to reduce the required twenty-foot perimeter setbacks, as required in the R-3 zoning district, at the south to fifteen feet, the east to ten feet, and the west to eight feet to permit the development of a single family home. The property is located at 5014 W. Cavalier Drive and is in the Cactus District. Staff Contact: Christina LaVelle, 623-930-2553.

FINDINGS:

The Board of Adjustment must analyze two 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 dimensions of the lot are approximately 70 feet by 78 feet. This results in a roughly square shaped lot. To be able to build a single family home with a backyard that meets the twenty-foot setback and to have twenty feet in the front yard to accommodate a driveway and carport, the proposed home requires relief of the side yard setbacks. In addition, being that this is a square-shaped lot, strict adherence to the development standards would result in a building envelop of 1,140 square feet for a single-family home and carport. This is an unreasonable limitation for a lot this size. The hardship was not self-imposed by the owner but was created at the time the lots were platted.

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:

Strict application of the zoning ordinance, restricts what can be built on the property. Within the Genevieve Subdivision, there are a variety of side yard building setbacks for the single-family homes. In general, the neighborhood has five and ten side yard setbacks, twenty foot rear yard setbacks, and fifteen to twenty foot front yard setbacks.

The applicant's request is in-line with other neighboring properties. In addition, in the R-3 zoning district, the applicant would be allowed a maximum lot coverage by structure of fifty percent. At 5, 436 square feet in size, the applicant would be afforded 2,718 square feet of building footprint. Using the strict application of the zoning ordinance the maximum lot coverage is reduced to twenty percent. The strict application of the code not only deprives the property of privileges enjoyed by its neighbors, it reduces the buildable area to a minimum lot coverage percentage that is only required of lots of one acre in size or more.

RECOMMENDATION

Should the Board of Adjustment decide to grant the variance, it should be subject to the following stipulations:

1. Development shall be in substantial conformance with the site plan, date stamped August 16, 2022.
2. Development shall be in substantial conformance with the floor plan, date stamped August 16, 2022.
3. Development shall be in substantial conformance with the project narrative, date stamped August 16, 2022.
4. The setback from the primary residence to buildings on adjacent lots must maintain a minimum of a fifteen-foot separation.

Ms. Cheshire asked the board if they had any questions.

Mr. Fiener asked if the setback will satisfy the neighbor.

Ms. Lavelle stated that the neighbor is in attendance and would speak to the question himself.

Ms. Gee asked what the setback is for the neighbor to the west, from the home to the property line.

Ms. Lavelle stated approximately 8 to 10 feet.

Ms. Cheshier asked if that setback was in conformance?

Ms. Lavelle stated not by today's standards, but they were when they were built.

Ms. Cheshier asked if the request was just for the 8-foot setback.

Ms. Lavelle stated the request is the same as last month except the west side setback has been increased to 8 feet.

The applicant presented.

Ms. Cheshier asked the board if they had questions for the applicant. There were none.

Ms. Cheshier opened the public hearing.

Mr. Joseph Sanmartano, 6211 N 51st Ave, the neighbor to the west of the site spoke of his frustration with the variance process and his concern for the side setback.

Ms. Cheshier asked if the board had any questions for Mr. Sanmartano.

Mr. Fiener asked if Mr. Sanmartano sold the property to the applicant.

Mr. Sanmartano replied yes.

Mr. Fiener asked if he filled out a property disclosure form for the sale.

Mr. Sanmartano replied yes.

Ms. Cheshier closed the public hearing.

Ms. Cheshier asked for board discussions.

Mr. Fiener asked if it were appropriate for the board to ask to see the disclosure statement for the sale of this lot.

Ms. Cheshier replied that the request would not be within the scope of the Board of adjustments and this case of setbacks.

The board voted per each finding with the help of City Attorney Mr. Romney.

Finding 1. - Mr. Fiener voted no, Mr. Britton, Ms. Gee and Ms. Cheshire voted "Aye"

Finding 2. - Mr. Fiener, Mr. Britton, Ms. Gee and Ms. Cheshire all voted "Aye".

Mr. Romney asked if the board would like to grant variance 22-07?
Mr. Britton motioned to grant
Ms. Gee seconded the motion
Ms. Cheshier polled the board.
Mr. Fiener voted no, Mr. Britton, Ms. Gee and Ms. Cheshire all voted "Aye"
Variance VAR22-07 granted.

- c. VAR22-08 - A request by Antonio Rendon for a variance to reduce the required 15-foot side setback on the south side to 10 feet in the R-2 (Mixed Residence) zoning district to allow for a carport addition to the main residence. The site is located at 6602 N 59th Drive, south of the SWC of Ocotillo Road and 59th Drive and is in the Ocotillo District. Staff Contact: Joseline Castaneda, Planner, 623-930-2823

FINDINGS:

The Board of Adjustment must analyze two 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 lot width creates a special circumstance not self-imposed by the property owner. The property is long and narrow and constructing a covered parking addition to the existing residential building requires some level of relief. The house does not have a garage or carport and applying the minimum setbacks would not allow for an adequately sized addition.

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 a carport addition to the existing residence. The residence currently has a 20-foot south side setback, and the proposed carport addition has a width of 10 feet, which would encroach into the minimum 15-foot setback. The property would be deprived of the privilege of having an attached covered parking structure of a similar size enjoyed by surrounding property owners.

RECOMMENDATION

If the Board decides to grant the variance request, it should be subject to the following stipulation:

Development shall be substantially in conformance with the applicant's project narrative, date stamped May 24, 2022, and site plan, date stamped August 3, 2022.

Ms. Cheshier asked the board if they had any questions.
Ms. Cheshier asked is the setback 10 feet?
Ms. Castaneda replied Yes.

Ms Cheshier asked if the applicant would like to present.
Applicant declined.

Ms. Cheshier asked the board if they had any questions for the applicant. There were none.

Ms. Cheshier opened the public hearing.
No comments were made.
Ms. Cheshier closed the public hearing.

Ms. Cheshier opened the discussion for the board, there were no questions.

The board voted per each finding with the help of City Attorney Mr. Romney.
Finding 1. - Mr. Finer, Mr. Britton, Ms. Gee and Ms. Cheshier all vote "Aye".
Finding 2. - Mr. Finer, Mr. Britton, Ms. Gee and Ms. Cheshier all vote "Aye".

Mr. Romney asked if the board would like to grant variance 22-08?

Mr. Britton motioned to grant.

Ms. Gee seconded the motion.

Ms. Cheshier polled the board. All voted "Aye".

Variance VAR22-08 granted.

7. STAFF REPORTS

There were no staff reports.

8. BOARD COMMENTS AND SUGGESTIONS

Ms. Cheshier and Mr. Britton informed the board they will not be able to attend the October 13, 2022, meeting.

9. NEXT MEETING

The next regular meeting of the Board of Adjustment is scheduled for November 11, 2022 at 4:00 p.m., in conference room B3 of the Council Chambers Building, located at 5850 W. Glendale Ave, Glendale, Arizona, 85301.

10. ADJOURNMENT

Mr Finer motioned to adjourn the meeting

Mr. Britton Seconded.

Meeting adjourned at approximately 5:15 PM.

The Board of Adjustment meeting minutes of September 8, 2022, were submitted and approved this tenth day of November 2022.

Kevin John Kazmerski
Recording Secretary