



MINUTES

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

**NOVEMBER 10, 2022
 4:00 P.M.**

1. CALL TO ORDER

The meeting was called to order at approximately 4:05 pm.

2. ROLL CALL

- Present: Cathy Cheshier, Chair
 Benjamin Naber, Vice Chair
 Brian Britton, Commissioner
 Lawrence Feiner, Commissioner
 Timothy Carson, Commissioner
- Absent: Tammy Gee, Commissioner
- Also Present: Tabitha Perry, Planning Manager
 Russ Romney, Deputy City Attorney
 Kevin Kazmerski, Recording Secretary
 Joseline Castaneda, 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 September 8, 2022, minutes.
 Mr. Feiner seconded.
 Ms. Cheshier called for a vote.
 All voted "AYE".
 Motion Passed, 9/08/22 minutes approved.

5. WITHDRAWALS AND CONTINUANCES

There were no withdrawals or continuances at this meeting.

6. PUBLIC HEARING ITEMS

- a. VAR22- 09 - A request by Duane Price for a variance to allow a six (6) foot side yard fence to encroach three (3) feet into the front yard plane of a residence within the R1-6 (Single Residence) zoning district. The site is located at 16201 N 61st Drive, on the northeast corner of Paradise Lane and 61st Drive and it is in the Sahuaro District.

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;

There are no special circumstances or conditions that exist about the property. It meets the minimum lot size and dimensions required for its zoning district and is of a similar shape of surrounding properties. The 6-foot wall could have been placed along the previous location, but was built farther into the front yard area, which allows a maximum fence height of 3 feet. As it was built in an area that would not allow for this height, this makes it self-imposed.

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 does not deprive this property from being able to have a 6-foot block fence that provides privacy, safety, and a side yard area that is enjoyed by surrounding properties within the same zoning district. The block wall could have been placed closer to the front residential plane; this would have provided a larger side yard than the previous block wall did as well as additional protection to this side of the residential home from the street.

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

The granting of the variance will have a detrimental effect on residential property owners as a privilege will be granted to the property owner that is not available to other property owners that are meeting the zoning regulations.

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 October 10, 2022, and site plan, date stamped October 10, 2022.

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

Mr. Britton had no questions.

Mr Feiner asked if the issue was that the fence was built out too far.

Ms. Castaneda replied yes.

Mr. Naber asked the following questions:

If not approved would the fence need to be torn down?

Is the property involved owned by the applicant?

Does the submitted site plan dated 10/10 match what was built?

Ms. Castaneda replied yes to all questions.

Ms. Cheshier asked what the ordinance stated.

Ms. Castaneda explained per the zoning requirements, the area past the front plane of the house is considered front yard. Maximum fence height for front yard fencing is 3 feet. The 6-foot fence was built three feet past the front plane of the house.

Mr. Naber asked what the purpose this zoning ordinance is.

Ms. Perry, Planning Manger, replied that the purpose of the ordinance is to have visibility and safety for the front yards and privacy and security in the backyards.

Mr. Naber asked why the fence was built past the house.

Ms. Castaneda replied that the original fence was damaged and when the applicant rebuilt they extended the fence into the front yard 3 feet.

Mr. Fiener asked when the new fence was built.

Ms. Castaneda replied in October 2021.

The applicant presented.

Mr. Price stated that his fence was damaged in September 2021 via a car accident. While researching with his contractor to rebuild it, Mr. Price came to the City of Glendale planning department for guidance. He was told by City staff that he did not need a permit for the fence and was given a diagram named G-47. That diagram refers to a 30-foot setback from the property line. The document does not mention any type of fence height requirements. With this document he and his contractor determined that they could rebuild the fence 3 feet into the front yard.

Ms. Cheshier asked the applicant about the setback on the fence.

Mr. Price replied that his fence is 33 feet 7 inches back from the property line.

Ms. Cheshier asked if there were any further questions, there were none.

Ms. Cheshier opened discussion back up to staff.

Ms. Cheshier asked staff to explain the discrepancy between the ordinance and the document the applicant was given.

Ms. Castaneda replied that the document given to the applicant is for an easement, it does not address the zoning requirements.

Mr. Naber asked about the houses where the fences are 6 feet at the garage, how do you account for this?

Ms. Castaneda explained that the front plane of the home is different on each side, ending at the end of the structure.

Ms. Cheshier asked if the front fence height was always 3 feet, some of the photographs look like they might be 4 feet.

Ms. Castaneda replied that the zoning ordinance states 3 feet. If any are taller than that they could be out of compliance.

Ms. Cheshier asked the applicant if he had any further comments.

Mr. Price stated that he had a very thorough meeting with City staff. He stated that the G-47 diagram is insufficient. When he received his violation letter he researched the ordinance, it does not mention the front plane of the house. He tried to do proper research before the fence was built.

Ms. Cheshier asked about the gap between the fence and the wall of the home.

Mr. Price stated that was for the electrical panel.

Mr. Naber asked when the fence was damaged

Mr. Price replied 9/17/2021.

Ms Cheshier opened the public hearing.

There were no speakers.

Ms Cheshier closed the public hearing.

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

Finding 1. - Mr. Britton, Mr. Feiner, Mr. Carson and Mr. Naber vote "AYE". Ms. Cheshier voted "NO".

Finding 2. - Mr. Britton, Mr. Feiner, Mr. Carson and Mr. Naber vote "AYE". Ms. Cheshier voted "NO".

Mr. Romney asked if the board would like to grant variance 22-09?

Mr. Naber motioned to grant variance 22-09.

Mr. Britton seconded.
Ms. Cheshier polled the board.
Mr. Britton, Mr. Feiner, Mr. Carson and Mr. Naber vote "AYE". Ms. Cheshier voted "NO".

Variance 22-09 Granted.

7. * OTHER BUSINESS

Discussion and recommendation of a new Chair and Vice Chair for appointment in January 2023.

Ms. Cheshier opened discussion for Chair and Vice Chair recommendations for 2023. Mr. Feiner suggested that they stay the same, Ms. Cheshier as Chair and Mr Naber as Vice Chair.

Ms. Cheshier stated the recommendation will commence at the December 2022 meeting.

8. STAFF REPORTS

There were no staff reports at this meeting.

9. BOARD COMMENTS AND SUGGESTIONS

There were none at this meeting.

10. NEXT MEETING

The next regular meeting of the Board of Adjustment is scheduled for December 8, 2022 at 4:00 p.m., in conference room B3 of the Council Chambers Building, located at 5850 W. Glendale Ave, Glendale, Arizona, 85301.

11. ADJOURNMENT

Mr. Carson motioned to adjourn.

Mr Britton seconded.

All voted "AYE".

Meeting adjourned approximately 4:45 p.m..

The Board of Adjustment meeting minutes of _____, 2022 were submitted and approved this ____ day of _____, 2022.

Kevin John Kazmerski
Recording Secretary