

DRAFT



MINUTES

**BOARD OF ADJUSTMENT
GLENDALE CIVIC CENTER
BOARDROOM
5750 W GLENN DR.
GLENDALE, ARIZONA 85301**

**NOVEMBER 9, 2023
4:00 P.M.**

Present: Cathy Cheshier, Chair
Benjamin Naber, Vice Chair
Timothy Carson, Board Member
Tammy Gee, Board Member

Absent: Lawrence Feiner, Board Member

Also Present: Tabitha Perry, Deputy Director - Development Services
Russ Romney, Deputy City Attorney
Joseline Castaneda, Planner
K. John Kazmerski, Recording Secretary

1. CALL TO ORDER

Ms. Cheshier called the meeting to order at 4:02 PM.

2. APPROVAL OF THE MINUTES

- a. Board of Adjustment Minutes of September 14, 2023.

Ms. Cheshier called for a motion to approve the September 14, 2023, minutes.

Mr. Naber motioned to approve.

Mr. Carson seconded.

Ms. Cheshier called for a vote, all voted "Aye". September 10, 2023, minutes approved.

3. WITHDRAWALS AND CONTINUANCES

There were no withdrawals or continuances.

4. PUBLIC HEARING ITEMS

- a. VAR23-01 - A variance request by Chris Dodson to reduce the west side setback from 5 feet to 1.75 feet and east setback from 10 feet to 2.2 feet from the main residential building in the R1-7 PRD (Single Residence Planned Residential District) zoning district for an accessory structure. The site is located at 5330 W Beryl Avenue, on the northwest corner of Beryl Avenue and 53rd Drive and is in the Barrel District.

Joseline Castaeda presented the case.

Ms. Perry stated for clarification that the staff report provides the board with two options. First would be denial, the second would be approval with stipulations outlined in the report.

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

Mr. Naber asked staff to explain the stipulations once more, if approved.

Ms. Castaneda restated the stipulations.

Mr. Naber asked if the applicant already had a gazebo in place?

Ms. Castaneda replied yes, and that the variance is needed to obtain a permit for the existing structure.

Mr. Naber stated that the structure was 154 square feet. What is the maximum that could be built without a permit?

Ms. Castaneda replied anything under 120 square feet; even a smaller structure would still need to comply with the required setbacks.

Mr. Naber asked about citizen responses. Were any of the responses negative?

Ms. Castaneda stated there were two responses, both in support of the variance.

Mr. Carson stated that the client constructed the gazebo with no permit, or variance.

Now we are here asking them to tear it down.

Ms. Cheshier asked if Mr. Carson had questions for staff?

Mr. Carson replied no.

Ms. Cheshier asked if Ms. Gee had any questions?

Ms. Gee said no.

Ms. Cheshier asked the applicant to present.

Mr. Dodson read a statement. This structure has safely remained intact, and has been in the same location for two years. It is well-built and is aesthetically pleasing. It is mostly hidden from public view in its current location. Apart from the setbacks, the structure meets all building code requirements for a residential accessory structure. The City has already approved the building plans for it. We built the structure not realizing we had code regulations we needed to follow. After the structure was built, we received a code violation. We reviewed staff's findings and had disagreements. On the first finding, staff calls out the square footage of the property, but dismisses the shape and the fact that there is a pool within the surroundings. Viewing the maps provided, you can see that the shape of the property is unique to other properties in the area. We have a pool, and the shade structure is meant to compliment and service the pool area. Second finding: staff dismissed the shape of the property and the location of the pool, which deprives our property of adequate shade near the pool. Third finding, staff, claims the variance is detrimental since it reduces the setbacks. Reducing setbacks is the whole point of this variance request. Comments made against natural disasters seem pretty unlikely for our geographical location and should be dismissable.

Staff provided two options as a remedy. First was a small awning that would not provide enough shade during the afternoon and evenings. The second option was to relocate the structure, which would defeat the purpose of the structure because it was built to

service the pool and is not needed anywhere else on the property.

Ms. Cheshier asked if the board had any questions.

Mr. Naber asked if the applicant had heard back from the next door neighbor?

Mr. Dodson replied that the neighbor on the west side that is affected the most sent a text message approval early on in this process, but did not respond to the notification letter. The text was provided to staff.

Mr. Naber asked staff if they could confirm the text message?

Ms. Castaneda stated she could not, but would need to recheck her emails.

Ms. Cheshier asked if a shade structure on the east side of the pool would suffice?

Mr. Dodson replied no, the area is too narrow and would have to abide by the 5-foot setback. As the sun sets, it does not provide shade.

Ms. Cheshier asked if Mr. Dodson had anything else to add?

Mr. Dodson asked if it was normal for this process to take two years, from code violation to hearing?

Ms. Cheshier stated that would be a question for staff.

Ms. Perry suggested a separate conversation with the applicant to discuss the variables that factor into the time frame.

Ms. Cheshier opened the public hearing.

There were no speakers.

Ms. Cheshier closed the public hearing

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

Mr. Naber asked if the variance was approved would the applicant need to remove the gazebo?

Ms. Castaneda stated approving the variance meant the applicant would be able to keep the gazebo as it is.

Ms. Cheshier asked Mr. Romney to poll the board on the findings.

With the help of Mr. Romney, the board voted on the findings.

Finding one, Mr. Naber voted "Aye", Mr. Carso voted "NAY", Ms. Gee voted "AYE". Ms. Cheshier voted "NAY"

Mr. Romney stated without an affirmative vote on the first finding, the case cannot move forward to the remaining findings and the case must close.

Ms. Cheshier asked if a tie vote meant a no vote?

Mr. Romney confirmed it meant a no vote.

Ms. Cheshier stated the decision of the board was a no vote. VAR23-01 has not been approved. Anyone wanting to appeal this action will have to do so in Superior Court.

5. CITIZEN COMMENTS

There were no citizen comments.

6. STAFF REPORTS

a. Discussion and Vote for 2024 Chair and Vice Chair

Ms. Cheshier asked that this item be continued to the December 14, 2023, meeting with the hope that all five board members would be present.

b. Approval of 2024 Meeting Dates

Ms. Cheshier called for a motion to approve the 2024 meeting dates.

Mr. Naber motioned to approve.

Mr. Carson seconded.

Ms. Cheshier called for a vote. All vote "AYE" 2024 meeting dates were approved.

7. BOARD COMMENTS AND SUGGESTIONS

There were no comments or suggestions.

8. NEXT MEETING

The next regular meeting of the Board of Adjustment is scheduled for December 14, 2023, at 4:00 p.m., in the boardroom of the Glendale Civic Center, located at 5750 W. Glenn Drive, Glendale, Arizona, 85301.

9. ADJOURNMENT

Ms. Cheshier called for a motion to adjourn.

Ms. Gee Motioned to adjourn.

Mr. Carson seconded.

Ms. Cheshier called for a vote. All vote "AYE" Meeting adjourned at 4:34 PM.

The Board of Adjustment meeting minutes of November 09, 2023, were submitted and approved this 14th day of December 2023.

K. John Kazmerski
Recording Secretary