

**TOWN OF PARADISE VALLEY
BOARD OF ADJUSTMENT
SEPTEMBER 01, 2010
MINUTES**

PRESENT: Hope Ozer, Chair
Rick Johnson, Board Member
Catherine Kauffman, Board Member
O'Dell Kiel, Board Member
Emily Kile, Board Member
Jonathan Wainwright, Board Member

ABSENT: Phil Hagenah, Board Member

STAFF: Eva Cutro, Planning Director
George Burton, Planner
Andrew Miller, Town Attorney

CALL TO ORDER

The work study session meeting of the Town of Paradise Valley Board of Adjustment was called to order by Chair Ozer at 5:30 p.m.

WORK/STUDY DISCUSSION ITEMS

Discussion of a variance from the Zoning Ordinance, Article X, Height and Area Regulations, to allow a guest house to encroach into the setback. The property is located at 7103 East Bar Z Lane.

Mr. Burton presented this case as per the project coordination packet. He stated the applicant requests a variance from Article X, Section 1001, to allow a detached guest house to encroach into the side yard setback. The subject property is a corner lot that abuts 71st Place. Section 1001 requires a 40 foot side yard setback for corner lots. The applicant is proposing to build a guest house at a setback of 20 feet from the west/side property line adjoining 71st Place. The guest house is 1,750 square feet under roof and is 15 feet 7 inches tall. Approximately 1,202 square feet of the guest house is encroaching the setback.

Mr. Burton provided information on the lot conditions.

Mr. Burton stated while staff believes the applicant has placed the guest house in a location needed to accommodate the medical needs of a family member, staff cannot support the request based upon the criteria of the Arizona Revised Statutes and recommends denial of this variance.

Mr. Burton reviewed the findings in favor and the findings opposed for this request.

Board Member Kauffman inquired that since this is regarding someone with disabilities is there different criteria the Board should be looking at. Mr. Burton replied according to State Statute it is the same six criteria.

Mr. Burton stated that the applicant provided a petition of support from the neighboring property owners. He further stated the petition and letters were included in the Board packet.

PUBLIC HEARING

Consideration of a variance from the Zoning Ordinance, Article X, Height and Area Regulations, to allow a guest house to encroach into the setback. The property is located at 7103 East Bar Z Lane.

Chair Ozer reviewed the meeting procedures.

Mr. Burton presented this case as per the project coordination packet. Staff recommends a motion to deny the variance request to allow a detached guest house to encroach into the side yard setback.

Mr. Burton reviewed the findings in favor and the findings opposed for this request.

Chair Ozer disclosed that she knows the homeowners and their counsel and does not see it as a conflict. She stated that she feels she can be objective. She further stated if anyone objects to let her know. Board Member Wainwright commented that he felt Chair Ozer could be objective. He further commented that in a small town, the Board members often know the applicant.

Mr. Burton responded to questions from the Board members regarding the variance request.

Jordan Rose, Rose Law Group, representing the applicants, Gregg and Lisa Holmes. She provided information on the applicants' involvement in the community. She reported that the neighbors are in 100 percent support of the variance.

Ms. Rose explained that Lisa Henry Holmes with her husband Gregg suffered a tragedy in that her father Glen Henry, a renowned University of Northern Iowa Football and swimming coach, was in a motorcycle accident that left him paralyzed from the neck down. Mr. Henry will never make a full recovery and will need 24/7 care for the rest of his life. She further explained that it is the intent of Lisa and Gregg to construct a guest house that will accommodate his medical needs and allow him to live with his daughter,

son in law and grandson on the property. She provided information on Mr. Henry's accomplishments.

Ms. Rose reviewed the hardships on this site. She also reviewed why the special circumstances are not self imposed. She discussed why the variance is in harmony with the intent of the Town Code. She stated the variance will not be a special privilege.

In response to a question from Board Member Johnson, Ms. Rose provided information on the alternative sites that were looked at and explained why they were not suitable due to Mr. Henry's medical needs.

Chair Ozer inquired if the applicants had looked at moving into another home that would have the available configuration to accommodate the father. Gregg Holmes, applicant, stated that they did consider moving to another home but there is not a market for their home.

Mr. Holmes stated the intent of the variance is to create a home environment that will make his father in law comfortable. He provided addition information on Mr. Henry's medical needs. He added that all of their neighbors support this request.

Chair Ozer opened public comment.

Mike Wilson, 7141 E Bar Z, spoke in support of the variance. He stated that he is the applicant's neighbor to the east. He further stated this is a close neighborhood and they are all supportive of the variance. He remarked the addition is unlikely to be seen by anybody. He further remarked that he likes the design.

Lindsay St. Clair is present on behalf of the neighbors Richard and Diane Walsnick that live at 7142 E. Bar Z. She read into the record their letter of support.

Jan D'Atri stated that she looks at this as human interest story and has been following what this family has been doing. She further stated that she supports their efforts.

Phil Pangrazio, 423 E La Puente, Executive Director of Bridge to Independent Living, spoke in support of this request. He reported that it is refreshing to see people like the Holmes. He further reported that it is important to provide more opportunities for the disabled. It is what we as a community ought to be doing for families to afford them opportunity to provide the disabled family member to live with them and increase their dignity and quality of life.

Ms. Rose addressed the setback issues with regard to the location of the guest house. She also addressed how the other configurations did not meet the accessibility needs. She reiterated that there is no neighborhood opposition.

Lisa Holmes, applicant, provided additional information regarding the obstacles associated with the alternative sites.

Glen Henry, appearing telephonically, provided information on the 24/7 care that he requires. He stated that he loves this area and looks forward to being a part of this community.

Gregg Holmes thanked everyone for taking the time to listen and understand the reality of this situation. He reported that it is important to recognize that they have truly been mindful of how the neighbors would be affected.

In response to a question from Board Member Johnson, Mr. Holmes stated that Mr. Henry would be a full-time resident. Ms. Henry reported that it is very expensive to transport her father. She also provided information on the insurance battles they are facing.

Chair Ozer closed public testimony.

Board Member Emily Kile stated that this case breaks her heart and that everyday at her office they try to figure out ways to help families take care of loved ones at home. She further stated that a variance runs with the land forever. She commented that this personally is a very difficult case because it does not meet the variance criteria and granting it would be more out of convenience.

Board Member Kauffman stated that she tries to separate emotion from fact but, in this particular case, less government is good. She further stated this should be done just because Mr. Henry needs it. She added that she is surprised that she has this opinion.

Board Member Wainwright stated that he felt the applicants' have a unique personal hardship and the guesthouse needs to be located in that spot. He further stated that it is not a special privilege in the manner that it would harm the neighborhood. The proposed facility is modest.

Board Member Wainwright moved for approval of Case No. BA-10-4, a request by Gregory and Lisa Holmes, property owner of 7103 East Bar Z Lane; for a variance from the Zoning Ordinance, Article X, Height and Area Regulations, to allow a detached guest house to encroach into the side yard setback. Seconded by Board Member Kauffman.

In response to a question from Board Member Emily Kile, Mr. Miller provided information on the statutes regarding abstaining from voting.

Chair Ozer called for the vote. The motion passed by a vote of four (4) to two (2) with Board members Emily Kile and O'Dell Kiel dissenting.

Chair Ozer inquired if it is appropriate for a council member to write a letter of support. Mr. Miller replied in the affirmative explaining that it should be treated as a letter from a normal citizen.

CONSENT AGENDA

Minutes of the June 2, 2010 Board of Adjustment Meeting Minutes of the August 11, 2010 Board of Adjustment Meeting

Board Member Kile stated requested a correction to the June 2, 2010 minutes on Page 2, paragraph 2 to last sentence, should be changed to read: "Mr. Burton stated there is a note in the file."

Board Member Johnson moved to approve the consent agenda as amended. Second by Board Member Kauffman.

The motion passed unanimously by a vote of six (6) to zero (0).

BOARD COMMENTS

Board Member Emily Kile stated that the applicant should have focused on the variance criteria and less on the disability. Ms. Cutro replied that the applicant was advised of that.

FUTURE AGENDA ITEMS

Mr. Burton reported there is a request for a setback variance for addition to main house that is tentatively scheduled for October but will most likely be scheduled for the November meeting.

ADJOURNMENT

The meeting adjourned at 7:30 p.m.



Eva Cutro, Secretary