

**TOWN OF PARADISE VALLEY
BOARD OF ADJUSTMENT
JANUARY 4, 2012
MINUTES**

PRESENT: Hope Ozer, Chair
Rick Johnson, Board Member
Catherine Kauffman, Board Member
Emily Kile, Board Member
Eric Leibsohn, Board Member
Robert Nagle, Board Member
Jonathan Wainwright, 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.

Chair Ozer introduced and welcomed Board Member Eric Leibsohn.

WORK/STUDY DISCUSSION ITEMS

Discussion of a variance from the Zoning Ordinance, Article X Height and Area Regulations, to allow an addition to the primary residence and a detached accessory structure to encroach into the setback. The property is located at 6538 E. Hummingbird Lane.

Mr. Burton presented this case as per the project coordination packet. The applicant requests a variance from Article X of the zoning ordinance to allow an encroachment into the setback for:

- A garage addition to the main house, and
- A detached casita.

Mr. Burton advised staff supports the variance request for the garage addition, but is opposed to the setback encroachment for the detached casita. The applicant is aware of staff's position, but wishes to proceed with a variance request for both the garage addition and the casita.

Mr. Burton stated staff recommends Motion "A", a motion to approve the variance request to allow the garage addition to the primary residence to encroach into the side yard setback, subject to the following stipulation:

1. The detached casita shall meet the 20 foot side yard setback requirement.

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

Mr. Burton reported that staff received one letter of support.

Board Member Wainwright stated that he might have a potential conflict because he might have owned this property at one time. Mr. Miller stated that if he does not own the property today or have any interest in the property, it would not be considered a conflict.

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

PUBLIC HEARING

Consideration of a variance from the Zoning Ordinance, Article Height and Area Regulations, to allow an addition to the primary residence and a detached accessory structure to encroach into the setback. The property is located at 6538 E. Hummingbird Lane.

Chair Ozer reviewed the meeting procedures.

Scott Belford, 12832 North 22nd Street, Phoenix, AZ, stated he is the architect on this project. He explained that the back portion of the lot is not usable because of the wash so they are trying to push it closer to the front. He further stated that he felt Mr. Burton did a good job explaining the situation in his presentation.

Board Member Kile inquired if there was any consideration given to locating the casita someplace else on the lot. Timothy Welch, 6538 E Hummingbird Lane, applicant, stated that they were trying to preserve the view line in the backyard and the only other place it could go was literally behind the house.

Board Member Johnson inquired if there was any consideration given to lessening the square footage of the casita and perhaps extending the great room to the east and making the covered patio go further out over the sundeck. Mr. Belford stated that one of the issues is that they are trying to preserve the line of sight of the pool for the kids. If they were to push the casita out they would lose square footage. Mr. Welch stated if they pushed the casita back any further they would lose sight of the deep end of the pool.

Board Member Leibsohn inquired if the applicant explored any other design alternatives for the garage. Mr. Belford explained that other design options were looked at but were not deemed viable.

In response to a question for Chair Ozer, Mr. Belford stated the mature saguaros that are currently on the property will be relocated on the property.

Board Member Kauffman inquired if there was any reason they could not make the great room 14 feet verses 16 feet. Mr. Belford stated if they were to use 14 feet it would become an extra bedroom rather than a pool room.

Chair Ozer opened public comment.

Carol Long 6432 E. Bluebird Lane, expressed her concern that granting this variance would set precedence for what things can be done to other properties down the road. She stated that she has been a resident in the Town since 1984. She further stated that two lots down from her property when they did a redo on their home and tore it down they did not maintain the natural wash and they lost some of their views. This incident was reported to the Town and nothing was done.

Chair Ozer reported that the Board of Adjustment's rulings do not set precedence and that each property is viewed individually. Mr. Miller stated that Chair Ozer is correct that the Board of Adjustment's rulings do not set precedence. He further stated that current Town Code requires that washes be left in the natural state.

Mr. Welch stated one of the things he really tried to do with these changes and the variance as well is to put height restrictions on how they build so that we don't block any neighbors' views or our views and they have tried to keep it as low as possible.

In response to a question from Mr. Johnson, Mr. Welch stated that they did share their plans with their next door neighbor.

Chair Ozer shared that she walked the property today and went over to the neighbor's house to see if she could gain access to see how it would impact their lot. The neighbors invited her upstairs to the balcony that over looks the applicants' property. She further shared that she observed the difference of two feet one way or the other would not make a difference visually.

Chair Ozer closed public comment.

Board Member Kile stated that she thought in some ways the casita actually helps this property because it will add privacy to this lot by the pool. This is a very odd shaped lot. She further stated that the applicants' are asking for very modest improvements. She

added she is in favor of the variance given the condition of the lot and meeting the variance criteria.

Board Member Johnson stated this lot is very irregular and there are hardships existing. He further stated he would commend the applicants' for looking at improving the existing property. They have done a good job trying to improve this property. He noted that he felt it is important that some of the older homes in the Town are updated.

Chair Ozer stated that she was just handed two public comment cards that express concerns that this variance may establish precedence for future land owners. She reiterated that the Board of Adjustment's rulings to do not set precedence and that each property is viewed individually.

Board Member Leibsohn stated that he may be in the minority but he would be speaking in denial of this request because he is not sure where the hardship exists. He discussed possible alternatives to the variance. He further stated that he strongly believes there are alternatives.

Board Member Wainwright stated that he believes hardships do exist on this lot given the shape, topography and drainage on the lot. He further stated that he finds that there are special circumstances, applicable to only the subject lot, and meets the variance criteria.

Board Member Kile moved for approval of Case No. BA-11-3, a request by Timothy and Carley Welch, property owners of 6538 E. Hummingbird Lane: for a variance from Article X, Height and Area Regulations, to allow a garage addition to the primary residence to encroach into the side yard setback and two foot encroachment in to the side yard setback of the detached casita. Seconded by Board Member Wainwright.

The motion passed by a vote of five (5) to two (2) with Board Member Kauffman and Board Member Leibsohn dissenting.

ELECTION OF CHAIR

Board Member Wainwright nominated Emily Kile to serve as chair of the Board of Adjustment. Seconded by Board Member Kauffman. Chair Ozer closed nominations. The Board unanimously elected Emily Kile to serve as chair of the Board of Adjustment.

CONSENT AGENDA

Minutes of the April 6, 2011 Board of Adjustment Meeting

Board Member Wainwright moved to approve the consent agenda as presented. Second by Board Member Kauffman.

The motion passed unanimously by a vote of seven (7) to zero (0).

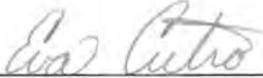
BOARD REPORTS/STAFF COMMENTS

Board Member Kile thanked Phil Hagenah for his service on the Board of Adjustment. She stated he did a wonderful job and we appreciate his service.

Ms. Cutro stated at an upcoming meeting Council will be presenting people with service awards and Mr. Hagenah will be a recipient. She further stated staff will send out an email to Board members if they are interested in attending.

ADJOURNMENT

The meeting adjourned at 6:20 p.m.



Eva Cutro, Secretary