

**TOWN OF PARADISE VALLEY
BOARD OF ADJUSTMENT
MARCH 7, 2012
MINUTES**

PRESENT: Emily Kile, Chair
Rick Johnson, Board Member
Eric Leibsohn, Board Member
Robert Nagle, Board Member
Jonathan Wainwright, Board Member

ABSENT: Hope Ozer, Board Member
Catherine Kauffman, 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 Kile at 5:30 p.m.

WORK/STUDY DISCUSSION ITEMS

Discussion of a variance from the Zoning Ordinance, Article XXIV, Walls and Fences, to allow a fence wall to encroach into the setback. The property is located at 6414 E. Maverick.

Chair Kile reviewed the meeting procedures.

Mr. Burton presented this case as per the project coordination packet. The applicant requests a variance from Article XXIV of the Town Zoning Ordinance to allow a fence wall to encroach into the side yard setback. The applicant is proposing to construct a fence wall at the west property line, which abuts a right-of-way (Invergordon Road).

Mr. Burton advised staff recommends Motion "A", a motion to deny the variance request to allow a fence wall to encroach into the side yard setback.

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

Board Member Wainwright inquired if comments were solicited from the HOA.

Ms Cutro reported that everyone within this area was notified. Mr. Burton stated that staff did not receive any inquiries or comments. It was noted that HOA approval is not needed.

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

PUBLIC HEARING

Consideration of a variance from the Zoning Ordinance, Article XXIV, Walls and Fences, to allow a fence wall to encroach into the setback. The property is located at 6414 E. Maverick.

Chair Kile stated that she might have a potential conflict the applicant built a house she used to live in. Mr. Miller stated that if she does not own the property today or have any interest in the property would not be considered a conflict.

Phillip Rosendall, engineer representing the applicant, stated the owner of this lot has a new home designed for the lot. As part of the approval process for the side, the Town has requested that he grant a drainage easement for the drainage that crosses the NE corner of his lot, which he has agreed to do. The owner will be responsible for improving and maintaining the easement and therefore would like to have all the property that he purchased to work with, in integrating the wash into his backyard landscape. It is his desire to maintain the existing alignment of the fence of this subdivision to the North boundary of his lot, as it apparently has been fenced prior to being removed to haul away the home that was demolished. He further stated this will require a variance from the 20 foot setback requirement for fences along this right-of-way, which was enacted after this subdivision was developed. He noted this is a reasonable request, as the existing fence going South from where it currently ends is built just on the private side of the right-of-way boundary and the character of the fence is uniform for 1,600 feet going South. This request will maintain the character and alignment for an additional 100 feet to the North boundary of the Lot, then at a right angle tie into the existing fence of the development to the North of Camelback County Club Estates, Elamaro Estates.

Mr. Rosendall provided information on the hardships and security issues that relate to this variance request. He responded to questions and comments from the Board members.

Chair Kile opened public comment.

John White, spoke in favor of this request. He stated that he has been living in the house next door for 15 years. He further stated with regard to security issues the HOA wants the wall extended but was not willing to spend the money.

James Audiss, spoke in favor of this request. He stated that he is the builder representing the applicant. He reported that there has been a lot of dialogue with the HOA and they support what is being proposed. From a visual standpoint this will provide consistency.

In response to a question from Board Member Leibsohn, Mr. Audiss provided information on the pool design.

Chair Kile closed public comment.

Board Member Wainwright expressed his concern that although this is the applicant's variance it will impact the HOA. Chair Kile stated that there is not a representative from the HOA present and it is the Board's job to make a determination based on the criteria.

Board Member Wainwright moved for approval of Case No. BA-12-1, a request by John Ward, property owner of 6414 E. Maverick Road; for a variance from the Zoning Ordinance, Article XXIV, Walls and Fences, to allow a fence to encroach into the side yard setback. Seconded by Board Member Johnson.

Chair Kile stated that she felt the variance requested does not meet the variance criteria. She further stated that she thought there are other options.

Board Member Nagle stated that he also felt the variance requested does not meet the variance criteria. He further stated that he felt the HOA had an opportunity to build the wall prior to the enactment of the ordinance.

Board Member Leibsohn stated he finds that the variance requested does not meet the variance criteria.

Board Member Wainwright stated that he finds there are special circumstances, applicable to only the subject lot, meeting the variance criteria. He further stated he felt it is a hardship for the homeowner to be deprived of the enjoyment of that section of their property.

Board Member Johnson stated he felt this is a reasonable request and is in harmony with the General Plan.

Board Member Wainwright stated that he felt there is a plausible argument for how this request meets all six of the criteria. He inquired if the Board members would like to discuss the six criteria individually. The consensus was that was not necessary as it would not change anyone's mind.

The motion failed by a vote of three (3) to two (2) with Board members Leibsohn, Nagle and Chair Kile dissenting.

Board Member Nagle moved for denial of Case No. BA-12-1, a request by John Ward, property owner of 6414 E. Maverick Road; for a variance from the Zoning Ordinance, Article XXIV, Walls and Fences, to allow a fence to encroach into the side yard setback. Seconded by Board Member Leibsohn.

The motion passed by a vote of three (3) to two (2) with Board Members Johnson and Wainwright dissenting.

CONSENT AGENDA

Minutes of the January 12, 2012 Board of Adjustment Meeting

Chair Kile requested a correction on page 2, under Public Hearing first paragraph; add the word not before the word usable.

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

The motion passed unanimously by a vote of five (5) to zero (0).

BOARD REPORTS/STAFF COMMENTS

Mr. Burton stated there is one application that is anticipated to be ready for the May meeting on a hillside home.

Board Member Kile stated in the past there has been opportunity for Board training and with the fair amount of turnover it might be useful. She requested staff add this to a future agenda. Mr. Miller stated it would be helpful to have training on open meeting laws as it relates to email.

ADJOURNMENT

The meeting adjourned at 6:45 p.m.



Eva Cutro, Secretary