

**TOWN OF PARADISE VALLEY
BOARD OF ADJUSTMENT
MAY 2, 2007
MINUTES**

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

ABSENT: Phil Hagenah, Board Member
Catherine Kauffman, Board Member

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

CALL TO ORDER

The regular meeting of the Town of Paradise Valley Board of Adjustment was called to order at 6:05 p.m.

Chair Johnson reviewed the meeting procedures.

Chair Johnson explained that each case is approved on its own merit and that the decisions made do not set precedence.

REGULAR BUSINESS

PUBLIC HEARING: Consideration of a variance from the Zoning Ordinance, Article XXII, Hillside Development Regulations, to allow for an increase beyond the maximum disturbed area requirements, located at 7045 N 59th Place.

Mr. Burton presented this case as per the project coordination packet. Staff recommends a motion to approve the variance request to increase the disturbed area calculation to 7,003 square feet. The property is located at 7045 N 59th Place.

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

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

Doug Jorden, 7272 E. Indian School Road, Suite 360 Scottsdale, AZ, introduced the project team. He provided information on the unique and special circumstances on this lot. He reported that the land area does meet the fire department requirements. He provided information on the square footage of the house. He further reported that the house was designed to not block the view corridors. He provided information on the neighbor support for this variance. He added that this request does meet the variance criteria to grant this request.

Chair Johnson opened public comment.

James Hann, architect representing Don Hammas, 9834 E Kalil Dr, spoke in favor of this request. He stated that he is currently working on a remodel for Don Hammas. He reported that Mr. Hammas is very much in favor of this request because it protects his site line.

Ruth Ann Moore, 7071 N 59th Place, spoke in favor of this request. She stated that she and her husband have lived in the Town for 21 years with unobstructed beautiful views. She further stated that if this variance is granted we will not see the house from their house.

Chair Johnson closed public testimony.

Board Member O'Dell Kiel moved for approval of Case No. BA-07-01, a request by Robert and Melanie Nuttal, property owners of 7045 N 59th Place, for a variance from Article XXII, Hillside Building Regulations, Section 2207 III. The variance will allow an increase disturbed area calculation to 7,003 square feet. The property is located at 7045 N 59th Place. This request will comply with all other applicable zoning requirements.

Board Member O'Dell stated that there are special circumstances, applicable to only the subject lot, meeting the variance criteria. Also that the applicant is preserving the views and willing to restore the existing disturbance on the property back closer to the natural condition.

Second by Board Member Wainwright.

Board Member Ozer stated that she agrees with the applicant regarding the placement of the home.

Board Member Emily Kile stated that the applicant has done what he can to minimize the impact and stay within the requirements. She further stated the applicant has also done their best to minimize the impact on the neighbors.

Chair Johnson stated that he felt this variance has merit given the constraints placed on the lot. He further stated that the applicant has attempted to do the driveway in the most un-disturbing manner and has taken into consideration the neighbors views. The motion passed unanimously by a vote of five (5) to zero (0).

PUBLIC HEARING: Consideration of a variance from the Zoning Ordinance, Article V, (R-43) Single Family Residential District, to allow for an encroachment into the setback for a sport court, located at 5430 E Via Buena Vista.

Ms. Cutro presented this case as per the project coordination packet. Staff recommends a motion to approve the variance. The property is located at 5430 E. Via Buena Vista Drive.

Ms. Cutro reviewed the findings in favor and the findings opposed for this request.

Ms. Cutro responded to questions from the Board members regarding the proposed variance.

Arthur Desautels, 5430 E. Via Buena Vista Drive, property owner, stated that he lives at this property with his wife and two children. He further stated that this is the only area available for a sport court because of the properties unusual shape. He reported that the sport court will be aesthetically attractive. He further reported that there will be a complete line of landscaping behind the 3 foot wall adding that the sports court will be hidden. He noted that the property was essentially rundown when he purchased it and had very little appeal to anyone. He further noted that he thought that he had a permit for the sports court but when he received the letter from Mr. Lee that it was not in conformance with the code, construction halted.

Chair Johnson stated the Town received an email from Mr. Sears and requested that the applicant contact him. Mr. Desautels provided information on his unsuccessful attempts to contact Mr. Sears. Ms. Cutro noted that the letter was given to the contractor and there was confusion regarding the last name.

Board Member O'Dell Kiel inquired if the applicant intends to put in a basketball hoop. Mr. Desautels replied in the affirmative on the back edge of the court. Ms. Cutro noted that if this variance is approved the applicant would have to apply for a sport court permit that shows the location of the basketball hoop to ensure it meets the setbacks.

Board Member O'Dell Kiel inquired if the court would be lighted. Mr. Desautels replied in the negative. Board Member Wainwright inquired if the Board were to grant the variance if the applicant would be okay with a stipulation that prohibits any lights. Mr. Desautels replied he would not be opposed to it.

Chair Johnson stated that the sports court is not a full size tennis court. Mr. Desautels replied in the affirmative.

Board Member Wainwright inquired if the applicant would be okay with a stipulation requiring the landscaping as shown. Mr. Desautels replied that would be fine.

Board Member Emily Kile inquired if the applicant was concerned with the fact that there is pretty much no open space or undeveloped area on the lot for other activities like just playing or kicking a ball around. Mr. Desautels explained where there will be a pretty good size area of open space.

Chair Johnson opened public comment.

Bob Darre, 8630 Aveinda Del Sol, spoke in favor of this request. He stated that he is directly behind lot 23. He further stated that he has lived in that house for 27 years. He reported that this is a difficult lot, but he felt that this is the highest and best use for this piece of land. The granting of the variance will not affect anyone. He further reported that his only issue is with the double fences.

Chair Johnson closed public comment.

Board Member Wainwright moved for approval of Case No. BA-07-02, a request by Arthur Desautels, property owner of 5430 E. Via Buena Vista Drive, for a variance from the Zoning Ordinance, Article V, R-43 Single Family Residential District. The variance will allow the applicant to construct a sport court at a setback of 20' from the front yard. The proposed sport court will comply with all other applicable requirements. With the added stipulations:

- 1) No lights will be permitted.
- 2) The landscaping will be in compliance with the photograph rendering in tonight's presentation.
- 3) The applicant shall obtain a permit for the sports court.

Second by Board Member Ozer.

Board Member Emily Kile stated that she thought the impact to the neighbors is non-existent. She further stated that she felt this request meets the variance criteria because of the odd shape of the lot.

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

MINUTES APPROVAL

March 7, 2007 Work Session and Regular Meeting

Board Member Emily Kile requested a correction to the March 7, 2007 meeting minutes. On page 4, seventh paragraph, fourth sentence, lease amount should be changed to least amount.

Board Member Emily Kile moved to approve the Study Session and regular meeting minutes of the March 7, 2007 as amended. Second by Chair Johnson.

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

BOARD/STAFF REPORTS

Mr. Burton reviewed the agenda for the next Board of Adjustment meeting.

Mr. Miller announced that Town Attorney Jim Davis has resigned effective May 25th.

EXECUTIVE SESSION

The Board of Adjustment may convene in executive session at one or more times during the meeting as needed to confer with the Town Attorney for legal advise regarding the requests described under Regular Business as authorized by A.R.S. 38-431.03.A.3.

ADJOURNMENT

The meeting was adjourned at 7:00 p.m.



Eva Cutro, Secretary