

**TOWN OF PARADISE VALLEY
BOARD OF ADJUSTMENT
MARCH 7, 2007
MINUTES**

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

ABSENT: Catherine Kauffman, Board Member

STAFF: Eva Cutro, Planning Director
George Burton, Planner
Jim Davis, 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 7:00 p.m.

Chair Johnson reviewed the meeting procedures.

REGULAR BUSINESS

PUBLIC HEARING: Consideration of a variance from the 1984 Hillside Building Regulations (the governing zoning ordinance for La Place du Sommet), to allow for an increase beyond the maximum driveway slope and disturbed area requirements, located at 5749 E Quartz Mountain Rd.

Mr. Burton presented this case as per the project coordination packet. Staff recommends a motion to approve the variance request to increase the driveway slope to 30% and a request to increase the disturbed area requirements, located at 5749 E Quartz Mountain Rd.

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.

Mark Fredstrom, architect for the project, 902 N Central Avenue Phoenix, AZ, explained that a goal for the project was to get the house situated on the site to best take advantage of the views. He discussed the need for the variance. He noted that the proposed house is certainly a reasonable size 8,000 square feet livable.

Chair Johnson inquired if the applicant explored other alternatives that would allow them to build this driveway with less than a 30 percent slope. Skip Nelson, Civil Engineer for the project, replied in the affirmative. He discussed the other options that were looked at.

Board Member Ozer inquired if the applicant was aware of all the challenges associated with this project when they purchased the property. Pat Fox, 2211 E. Camelback Road Phoenix, AZ, applicant, replied probably not.

Board Member Emily Kile inquired if it was their intent is to live in this home. Mr. Fox replied in the affirmative.

Chair Johnson opened public comment.

Chairman of the La Place du Sommet Architectural Committee, 7473 N 58th Place, stated the Committee reviewed the design. He further stated that although discouraged by the original platting, as they looked at this property they saw no other way to access this property and create a usable building. He noted that the Committee is in favor but is concerned about safety as the driver either entering or exiting the lot must make the steep incline going up or down on Quartz Mountain Rd. He further noted that the use of the house is very appropriate but the matter of getting into the site is a problem. He added that lot 8 will also use this driveway. He responded to questions from the Board Members.

In response to a question from Board Member Ozer, Mr. Mead provided information regarding how emergency vehicles will access this site.

Mr. Mead stated that there are a lot of natural features and rock outcroppings on the site that the Town would like to preserve and the architect and engineer have done a good job locating the house. He further stated that unfortunately he sees no other choice for the location of the driveway.

In response to a question from Chair Johnson, Mr. Mead explained that the Town has requirements that are taken to minimize the scar on the hillside.

Mr. Mead stated that when this goes through the hillside process, the Hillside Committee is very concerned about hillside lighting and they will oversee the lighting on this house.

In response to a question from Board Member Wainwright, Mr. Mead showed on the graphic where the driveway would branch out to Lot 7.

Kerry Zang, 5789 E Quartz Mountain Rd, spoke in opposition to this request. He discussed his many concerns regarding this request. He further stated as a clarification this was not voted on by the La Place Du Sommet Board of Directors. He noted that

many residents bought their properties under the '84 hillside regulations and built under the regulations. He further noted that you cannot hide a 900 foot scar. He expressed his concern that this will create a blind curve. He also expressed his concern that the fence will not hold the boulders. He noted that he spoke to some of his neighbors and they were not aware of this meeting because there was only a small sign posted at the end of the driveway.

Mr. Burton stated that notification was mailed out via 600 foot radius from the property. He further stated that the mailing list was included in the Board packet.

In response to a question from Mr. Zang, Mr. Mead provided information regarding how this subdivision got platted. He explained that there was a lot of litigation involved and the Town had to allow the subdivision to be developed as it was originally platted. He further explained that the engineer had to certify that all the lots are buildable.

Michael Pachtman, 5720 E. Cheney Drive, spoke in opposition to this request. He stated that he has lot 15 and he did not receive notice of this hearing but only found out by the little sign posted on the side of the road. He expressed his concern that by approving this request it will set precedence. Board Member Johnson explained that Board of Adjustment cases are all viewed on their own merit and do not set precedence.

Karen Pachtman, 5720 E Cheney Drive spoke in opposition to this request. She stated that she would concur with the prior two speakers. She further stated that aesthetically speaking she felt a big long driveway changes everything.

Gary Mattox, 5689 E. Quartz Mountain Rd, spoke in opposition to this request. He expressed his concern regarding the blind corner this request would create. He stated that he learned of this hearing from the small sign that was posted.

Daniel Gruber, 7420 N 58th Place, spoke in opposition to this request. He inquired if special trucks might be needed to get up those grades if there is a fire. He expressed his concern regarding brush fires. He suggested as a possible alternative having a deeper, longer but shallower cut. He stated that he understands this would violate the 1984 hillside regulations as well. He further stated that he would suggest the applicant further explore this alternative. He inquired about the disturbed area. Mr. Burton provided information on the driveway count and the percentage of disturbed area. Mr. Nelson provided additional information regarding the disturbed area on the site.

Margaret Bean, 5750 E Quartz Mountain, expressed her concern regarding all of the drilling that would be occurring opposite of her driveway.

Ed Shaufler, 4800 E Marston, stated that when he did his due diligence with regard to lot 5 he did not consider this road. Chair Johnson stated that it is his understanding that this

driveway does not affect his lot. Mr. Nelson explained that the current plan has been shifted and does not affect Mr. Shaufler's lot.

Ira Schwartz requested clarification regarding whether lot 5 benefits from this road. Mr. Mead replied in the negative. Mr. Nelson explained in the early stages it did but not since the plan has been shifted. Board Member Kile stated this driveway covers lots 7 and 8.

Chair Johnson closed public comment.

Board Member Ozer stated that she was concerned that many of the neighbors have indicated that they did not receive the mailing regarding this hearing. She further stated that she was concerned about the health and safety issues if this variance is approved as well as how it will affect Mrs. Bean and her property. She commented that the HOA did not approve this just the Architectural Committee. She further commented that she felt there are just too many questions.

Board Member Ozer moved for denial of Case No. BA-06-12, a request by Nathaniel and Lily Fox, property owners of 5749 E. Quartz Mountain Rd., for a variance from the 1984 Hillside Building Regulations. The variance will allow an increase the driveway slope to 30% and a request to increase the disturbed area calculation to 25,796 square feet. The property is located at 5749 E. Quartz Mountain Rd.

Board Member Ozer stated that she did not feel at this point that we have enough information to go forward and approve the variance.

Second by Board Member Hagenah.

Board Member Emily Kile stated that she was sad that the homeowners in this area are not supportive of the building of this lot. She further stated that Mr. Mead has commented that there is not a different way to build this lot because otherwise it becomes a useless parcel. She commented that these people have spent a considerable amount of money to purchase this lot and design a home. They have worked hard to come up with a way to have the least amount of disturbed area for the driveway. If this were built under the current hillside requirement a 30% grade would be acceptable. She further commented with regard to the safety issues, which is the purview of the Hillside Committee to ensure the emergency vehicles can get to the site. She added that the amount of square footage compared to most homes in Paradise Valley is quite small. She further added that there is no perfect solution but felt there is no other solution.

Board Member Wainwright stated that he has heard a number of concerns by different people but has not heard any viable alternatives. He further stated that he would agree that this is a very difficult lot with many challenges and this is just the beginning of a multi-tiered approval process. He remarked that he felt the request is reasonable given

the lot and given the fact that they are building the house in an area that is farther away from the street that results in the driveway being longer. This spot is a friendlier spot for the neighbors. He concluded that in lack of any kind of alternatives, he would be in favor of the variance.

Chair Johnson stated that he would echo Board Member Kile's comments. He further stated that regardless of how this got approved some 20 years ago and with Mr. Mead's comments, he does not see alternatives that would allow this lot to be developed. He remarked that he felt this request meets the criteria that the Town has established to allow a variance.

Board Member Hagenah stated that they are looking at a lot that is basically unbuildable. He further stated the only reason that these lots were created is because of a lawsuit which means that the Town has to figure out a way to allow building on it.

Chair Johnson called for the vote. The motion failed by a vote of two (2) to four (4) with Board Members' Wainwright, O'Dell Kiel, Emily Kile and Chair Johnson dissenting.

Board Member Emily Kile moved for approval of Case No. BA-06-12, a request by Nathaniel and Lily Fox, property owners of 5749 E. Quartz Mountain Rd., for a variance from the 1984 Hillside Building Regulations. The variance will allow an increase the driveway slope to 30% and a request to increase the disturbed area calculation to 25,796 square feet. The property is located at 5749 E. Quartz Mountain Rd. This request will comply with all other applicable zoning requirements. Second by Board Member O'Dell Kiel.

The motion passed by a vote of four (4) to two (2).

MINUTES APPROVAL

January 3, 2007 Work Session and Regular Meeting
February 7, 2007 Work Session and Regular Meeting

Board Member Hagenah moved to approve the Study Session and regular meeting minutes of the January 3, 2007 and February 7, 2007 as presented. Second by Board Member Wainwright.

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

BOARD/STAFF REPORTS

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

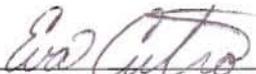
Chair Johnson stated at the last meeting it was discussed whether the Board should formally adopt Robert's Rules. Mr. Davis replied that he did not feel it was necessary unless the Board felt there is a problem with how the meetings are proceeding. The consensus of the Board was that there is not a need to adopt Robert's Rules.

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 7:35 p.m.



Eva Cutro, Secretary