

**TOWN OF PARADISE VALLEY
BOARD OF ADJUSTMENT
JUNE 7, 2006**

MINUTES

PRESENT: Rick Johnson, Chair
Emily Kile, Board member
Catherine Kauffman, Board member
Hope Ozer, Board Member
Jonathan Wainwright, Board Member

ABSENT: Phil Hagenah, Board Member
Ann Townsend, Board member

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

CALL TO ORDER

The regular meeting of the Town of Paradise Valley Board of Adjustment was called to order by Chair Johnson at 6:15 p.m.

Chair Johnson reviewed the meeting procedures.

REGULAR BUSINESS

PUBLIC HEARING: Consideration of a variance from the Zoning Ordinance, Article V, R-43 Single Family Residential District, Article X, Height and Area Regulations, and Article XXIV, Walls and Fences, to allow for an encroachment of a single family residence, guest house, pool and fence into the front yard setback, located at 6618 N 46th St.

Mr. Burton presented this case as per the project coordination packet. Staff recommends a motion to approve the variance request to allow for an encroachment of a single family residence with a three foot overhang at a setback of 20 feet, a 40 foot encroachment into the front yard setback to allow for a new guest house at a setback of 20 feet, a 17 foot encroachment into the front yard setback to allow for a new swimming pool at a setback of 24 feet and a 40 foot encroachment into the front yard setback to allow for a new fence wall at a setback of 0 feet.

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.

In response to a question by Chair Johnson, Mr. Burton provided information of the livable square footage.

Chair Johnson opened public testimony.

Richard Brock, 4664 E. Quartz Mount Road, spoke in favor of this request. He stated that he owns the home adjacent to this request at 4601 E. Ocotillo Road. He further stated that recently he presented a petition to the Town regarding the undeveloped portion of 46th Street. He remarked that he believed this variance will improve the subject property and the neighborhood. He noted that his property is the most visible to property of this request, so if anyone would object it would be him.

Richard Graham, 6535 N. 46th Street, stated that he is very strongly in favor of this request. He further stated he wants the wash to stay the way it is.

Chair Johnson closed public testimony.

Board Member Ozer moved for approval of Case No. BA-06-03, a request by Kent and Janice Heyl, property owners of 6618 N 46th Street, for a variance from the Zoning Ordinance, Article V, Section 502, Article X, Section 1001 and Section 1008, and Article XXIV, Section 2404. The variance will allow the applicant to construct a new single family residence with a three foot overhang at a 20 foot front yard setback, a new guest house at a 20 foot front yard setback, a new swimming pool at a 23 foot front yard setback and a new fence wall at a 0 foot front yard setback. The proposed structures will comply with all other applicable requirements.

Board Member Ozer stated that she finds that there are special circumstances, applicable to only the subject lot, meeting the variance criteria.

Second by Board Member Wainwright.

Board Member Kile expressed her concern that she did not think the purpose of having a variance is to allow people to use all of the buildable areas of the lot used, and that is what she feels is being requested.

Board Member Wainwright stated that this particular lot is the poster child for why people need variances due to the revised wash ordinance, shape, and setbacks. He further stated that he felt the applicant has made a real effort to adhere to the spirit of the setbacks. He added that he felt this would be a big improvement to what is there. He further added that by modern standards on one-acre lots, what is being requested is pretty modest.

Chair Johnson stated that he felt there are special circumstances, applicable to only the subject lot.

The motion passed by a vote of four (4) to one (1) with Board Member Kile dissenting.

PUBLIC HEARING: Consideration of a variance from the Zoning Ordinance, Article XXIV, Walls and Fences, to maintain a legal non-conforming six foot high wall at its current setback of 10 feet from the north/side property line. The property is located at 7835 N Ironwood Dr.

Mr. Burton presented this case as per the project coordination packet. Staff recommends a motion to deny the variance request to maintain a legal non-conforming six foot high wall at its current setback of 10 feet from the north/side property line. The property is located at 7835 N Ironwood Dr.

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, Suite 205, Scottsdale, Arizona, stated that he is here representing the Hoyt's. He explained that at the time the wall was built it complied with the then-current Zoning Ordinance provision that required the wall be set back 10 feet from the property line. The Hoyt's are in the process of planning a major remodel to their residence, and in doing so are required by the Town Zoning Ordinance to make the wall conform to recently-adopted wall regulations.

Mr. Jorden stated that the existing 3-foot high wall in front of the house along Ironwood Drive meets the newly-enacted wall ordinance. The 6-foot high wall along Northern Avenue, which is set back 10 feet from the property line, does not meet the new ordinance. He presented photographs that depict both the Ironwood Drive wall and the Northern Avenue wall.

Mr. Jorden presented information regarding why this requests fits the variance criteria. He discussed the hydrology conditions that exist. He reviewed the water flow on the site.

Mr. Jorden reported that there is neighborhood support for this variance request.

Chair Johnson opened public comment.

Phil Smith, 8008 N. Invergorden, spoke in favor of this request. He stated that he owns the property across the street. He further stated that he will suffer a hardship if the wall has to be moved. He reported that the hydrology issues speak for themselves. He further reported that the wall helps to divert the water. He stated that he thought the wall is attractive.

Steve Culinan, 6326 E. Northern Avenue, spoke in favor of this request. He provided information on the flooding that has occurred in this area. He further stated that he has not seen the major flow in that area since the wall was built. The wall helps to divert the water. He noted that we were concerned when they first started building the wall but once it was built, we loved it. He further noted that it is a good looking wall. He added the Hoyt's do an excellent job of maintaining the landscaping in that area.

Scudder Gookin 4203 N. Brown Avenue, Gookin Engineers, LTD spoke in favor of this request. He explained how this wall diverts the water. He noted that if the wall were to be moved it would change the drainage patterns. If you change the drainage patterns, it is likely that the flooding potential to the downstream residence will be restored to a condition similar to prior to the wall construction.

Mr. Gookin responded to questions from the Board regarding the hydrology issues in this area.

Chair Johnson closed public testimony.

Board Member Johnson moved for approval of Case BA-06-06, a request by Greg and Megan Hoyt, property owners of 7835 N Ironwood Dr., for a variance from the Zoning Ordinance, Article XXIV, Walls and Fences, Section 2415 and Section 2404. The variance will allow the applicant to maintain a legal non-conforming fence wall at its current location of 10 feet from the north property line. The existing fence wall complies with all other zoning requirements. Second by Board Member Ozer.

Board Member Kile stated that considering how much money the Town has put towards flood control it behooves us to do something that does not increase flood issues in the Town. Chairman Johnson stated that he would concur with Board Member Kile's statement.

Board Member Wainwright stated that Mr. Jordan did a good job making sure the variance did adhere to the variance criteria in addition to showing hardship. He further stated that the applicant has played by the rules and by no fault of their own the rules changed. He remarked that at least a third of the wall would not require a variance.

Board Member Kile stated the applicant has done a beautiful job with the wall and the landscaping fits the area and neighborhood.

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

MINUTES APPROVAL

April 5, 2006 Work Session and Regular Meeting May 3, 2006 Work Session and Regular Meeting

Board Member Ozer moved to approve the April 5, 2006 work study session meeting minutes as presented. Second by Board Member Kile.

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

Board Member Ozer moved to approve the April 5, 2006 regular meeting minutes as presented. Second by Board Member Kile.

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

Board Member Ozer moved to approve the May 3, 2006 work study session meeting minutes as presented. Second by Board Member Kile.

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

Board Member Ozer moved to approve the May 3, 2006 regular meeting minutes as presented. Second by Board Member Kile.

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

BOARD/STAFF REPORTS

Chair Johnson stated that staff sent out an email regarding the July 5th meeting regarding the fact that there will not be a quorum. The consensus of the Board was to reschedule the meeting to July 12th.

Mr. Miller presented information on the Remodeling Committee recommendation to Town Council that staff investigates some type of administrative relief or waiver for hardships for properties that remodel rather than tear down. It was recommended that cases that meet the criteria could apply for administrative relief from the Planning Administrator/Planning Director noting that those decisions could be appealed by the Board of Adjustment.

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 7:30 p.m.



Eva Cutro, Secretary