

**TOWN OF PARADISE VALLEY
BOARD OF ADJUSTMENT
FEBRUARY 1, 2006**

MINUTES

PRESENT: Rick Johnson, Chair
Phil Hagenah, Board member
Emily Kile, Board member
Catherine Kauffman, Board member
Hope Ozer, Board member
Ann Townsend, Board member

ABSENT: Jonathan Wainwright, Board member

STAFF: Eva Cutro, Planning Director
Paul Walker, Senior Planner
Jim Davis, Assistant 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 6:03 p.m.

Chair Johnson reviewed the meeting procedures.

REGULAR BUSINESS

PUBLIC HEARING: Consideration of a variance from the Zoning Ordinance, Article X, Section 101, allowing for a proposed second story addition with a setback of 21'6" feet and a height of 22'6" feet. The subject property is located at 5311 N. Palo Cristi Road.

Mr. Walker presented this case as per the project coordination packet. Staff recommends a motion to approve the variance from Article X, Section 1001 of the Zoning Ordinance for the proposed second story addition. The proposed addition would be setback 21'6" feet from the south property line and have a height of 22'6". Staff finds that the Applicant has met all six variance criteria to clearly show undue hardship for this requested variance.

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

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

David Ross, 4000 N. Scottsdale Road, Suite 200, representing the owner, stated the intent of the addition is to enhance the livability of the home based on the odd-shaped lot. He further stated we are proposing to enclose the deck area by taking the wall vertically on the same plane that exists along the elevation that faces the canal. The proposed addition would not impact the view corridor. He noted the addition will match the existing structure. Mr. Ross responded to questions and comments from the Board members regarding the proposed variance.

Commissioner Kile inquired if the owners intended on staying after the construction is completed or did they plan to sale. Mr. Ross replied it is the owners' intent to move in after the construction is completed.

Chair Johnson opened public testimony.

Randall Jaeger, 5311 N. Palo Cristi Road, stated he is the owner of this property. He further stated that this process has been quite a task. He reported we moved into the home in August 2003. The home was built in 1999. He further reported that he has had to put a new roof on the house and has had roofing contractors over on many occasions to try and fix the water leaks. One of the things we are hoping to accomplish with this proposal is to try and eliminate a lot of those leaks. He added that this house only has three bedrooms and felt it would be a good move for a house that size to have more bedrooms.

Board member Ozer stated there was an applicant before this Board just a few years ago. She inquired if when they purchased this home if these issues were not detected by the home inspector. Mr. Jaeger replied the inspector did not detect these problems. He stated that we were told by the people we purchased the home from that they already had the permits for the building upstairs.

William Chaffee, 3662 E. Denton Lane, spoke in opposition to this request. He stated that after he heard the explanation he was a little less opposed if the addition has no affect on the people to the north. He further stated that the only problem he had is that by allowing a second floor this would set a precedent.

Chair Johnson explained that whatever happens here tonight does not set precedence.

Frank Goodyear, 3601 E. Denton Lane, spoke in opposition to this request. He stated that he and his wife moved to Paradise Valley because they like the special character. He further stated that Denton Lane is a quiet street that is very beautiful. He commented that he is not afraid of change but he does worry about the kind of negative changes that are proposed. He further commented that he does worry about precedence.

Chair Johnson reiterated that whatever happens here tonight does not set precedence.

Elizabeth Goodyear, 3601 E. Denton Lane, spoke in opposition to this request. She explained that we have worked hard to keep the dirt road that provides access to the walking path to walk along the canal. She commented that we really love the character of the little strip of dirt. She further commented that the character of Denton Lane is very quiet and we would like to keep it that way. She noted that the applicant knew the zoning when he purchased the property. She further noted that we would like to keep the house from getting any bigger. She added that the house is not facing the neighbors' houses but it is facing the folks walking along the canal.

Pam Dow, 3615 E. Denton Lane, spoke in opposition to this request. She stated that she would concur with what has already been stated. She further stated that her biggest concern is regarding privacy that the addition would look over into her backyard. Chair Johnson stated that it would not look over into her backyard.

Scott Connor, 3636 E. Denton Lane, spoke in opposition to this request. He stated that he was on the Town Council in the early 80s and early 90s and their biggest project was the Arizona Canal Project. He further stated that we fought long and hard to make this a beautiful natural corridor. He reported that he felt this house is already overbuilt. He further reported that he has kept the footprint of his home small and that he is not a fan of overbuilding. This house needs a bigger lot for this much square footage.

Mr. Connor requested information on the standards for granting a variance. Mr. Walker read the variance criteria.

Board Member Ozer stated that this is not legally a conflict but she would like to disclose the fact that her daughter babysat for Mr. O'Connor's children around 15 years ago. She further stated that she has not seen him since he served on the Town Council.

Chair Johnson closed public testimony.

Mr. Ross reiterated the fact that where the addition would be placed would not have impact on the neighbors that they are just extending the wall.

Board Member Ozer inquired if when Mr. Jaeger purchased his home, a few years ago, was it his intention to enlarge the home. Mr. Jaeger replied in the affirmative and assumed it would not be a problem due to the fact that the previous owners already had the permits in place for building upstairs. He stated that he thought that it was already approved.

Board Member Ozer inquired how many people live in this house. Mr. Jaeger replied three and they plan to have another child in the next year or two. He explained the problem with the house is that it is a good size but only has three bedrooms. It would be a lot more marketable if it had more bedrooms.

Chair Johnson inquired if it is their intention to stay in this house long term. Mr. Jaeger replied in the affirmative.

Board Member Kauffman inquired if the architectural style for the addition would be the same as the existing house. Mr. Jaeger replied in the affirmative.

Board Member Hagenah requested staff to reiterate why staff is recommending approval. Mr. Walker replied that staff found there are special circumstances, applicable to only the subject lot, meeting all six variance criteria on the requested second story addition.

Board Member Kile stated that she would agree with many of the comments opposing this variance. She further stated that she would also agree it seems the house on this lot is fairly over built. It concerns her that all of the prior owners of this house have added on and it seems piecemeal. And that each owner has only owned the home for a short period of time. She remarked by the same token in this particular instance she felt the addition would have very little impact on the neighboring properties. She further remarked that she would agree this house is overbuilt but it is still below the 25 percent.

Board Member Townsend stated that she is regretful that the neighbors who have commented tonight were not clear on the position of the proposed addition and that it would not impact them and that it looks over the canal. She further stated that the addition would still be under the 25 percent that the Town allows.

Board Member Hagenah moved approval of Case No. BA-05-06, a request by Mr. & Mrs. Jaeger, property owners of 5311 N. Palo Cristi Road, for a variance from Article X, Section 1001, of the Town Zoning Ordinance. The variance would allow for construction of an approximate 1,394 square foot second story addition setback 21'6" from the south property line at a maximum height of 22'6", subject to the following stipulation:

- 1) The second story addition shall be in compliance with the plans presented to the Board, including the 'Site Plan' and 'Elevation Plan', prepared by Ross Design Group LLC, Dated December 13, 2001.

He stated the reason for approval is that he finds there are special circumstances, applicable to only the subject lot, meeting all six variance criteria on the requested second story addition.

Second by Board Member Townsend.

Ms. Cutro inquired if Board Member Hagenah would consider making an amendment to the stipulation as follows:

The second story addition shall be in compliance with the plans presented the Board including the 'Site Plan' and 'Elevation Plan' presented to the Board, including the site plan amended to show the correct 8'6" setback in the front yard.

Board Member Hagenah and Board Member Townsend agreed to the proposed amendment.

Board Member Ozer stated that she thought it is unfortunate that the applicant was misled to believe this was already approved and that the home inspection did not reveal the leakage problem. She further stated that the applicant knew the size of the home when they bought it. She remarked that she finds the subject lot does not meet the six variance criteria and that an undue hardship does not exist.

Chair Johnson called for the vote: The motion passed by a vote of four (4) to two (2) with Board Member Kauffman and Board Member Ozer dissenting.

Chair Johnson stated that the applicant has a very narrow dirt road going to his property, and he would strongly recommend when talking to the contractors they do everything possible to avoid disrupting any of the residents on Denton Lane.

MINUTES APPROVAL

Study Session November 2, 2005 Regular Meeting November 2, 2005

Board Member Hagenah requested a correction to the November 2, 2005, regular meeting minutes, page 4, under Election of Chairman, the minutes stated that he nominated and seconded the motion. The minutes should be amended to show Board Member Townsend seconded the motion.

Let the record reflect that the November 2, 2005, study session minutes were not included in the Board packet and will be approved at the next meeting.

Board Member Hagenah moved to approve the regular meeting minutes as amended.
Second by Board Member Ozer.

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

BOARD/STAFF REPORTS

Ms. Cutro reported staff just received an application for a wall variance that will probably be heard at the March meeting. Mr. Walker reported staff has also received an application for a setback variance.

Board Member Kile stated that she would like to thank Paul Michaud for his service and hard work to the Board and the Town.

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 7:15 p.m.



Eva Cutro, Secretary