

**TOWN OF PARADISE VALLEY  
BOARD OF ADJUSTMENT  
MARCH 4, 2009  
MINUTES**

**PRESENT:** Emily Kile, Chair  
Phil Hagenah, Board Member  
Catherine Kauffman, Board Member  
Jonathan Wainwright, Board Member  
Hope Ozer, Board Member

**ABSENT:** O'Dell Kiel, Board Member  
Rick Johnson, Board Member

**STAFF:** Eva Cutro, Planning Director  
George Burton, Planner  
Steven Zraick, Assistant Town Attorney

**CALL TO ORDER**

The work study session meeting of the Town of Paradise Valley Board of Adjustment was called to order by acting Chair Kile at 5:30 p.m.

**REGULAR BUSINESS**

**PUBLIC HEARING: Consideration of a variance from the Zoning Ordinance, Article X Height and Other Regulations, to allow a new single family residence to encroach beyond the height limit. The property is located at 7026 East McDonald Drive.**

Chair Kile reviewed the meeting procedures.

Mr. Burton presented this case as per the project coordination packet. He stated the applicant requests a variance from Article X, Section 1001, to allow a new single family residence to encroach into the overall height limit and the Open Space Criteria.

Mr. Burton explained the Zoning Ordinance limits the overall height of the house to 24 feet and the proposed home is 24 foot 6 inches high. The applicant requests the additional 6 inches of height for the potential placement of solar panels on the roof. Currently, the Town is pursuing ways to accommodate solar panels and sustainable technologies.

The proposed home also encroaches into the Open Space Criteria in multiple areas. The roof deck railing is 16 feet 6 inches high at the 40 foot setback. The Open Space Criteria limits the primary residence to a height of 16 feet at the 20 foot setback and a height of 20 feet at the 40 foot setback.

Staff recommends a motion to approve the variance request.

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 variance request.

Chair Kile inquired if there has been any response from the neighborhood. Mr. Burton reported that staff did receive one letter of support. He further reported that staff also received an inquiry in which the main concern was regarding if this request sets precedence. Mr. Burton explained that each case is reviewed individually.

Jason Allen, Skyline Consultants, stated that he would agree with the staff presentation. He further stated the owner's lot has a demonstrable hardship worthy to warrant a variance due to the parcel having atypical narrowness. Due to the narrow shape of the lot, the Open Space Criteria deprives the applicant from reaching the 24 feet height. He further stated that it is important to note that the proposed home is small for its zoning classification. The applicant has maintained the intent of the Zoning Ordinance by placing the mass of the home at the center of the lot.

Chair Kile inquired if it is the applicant's intent to reside at this location. Mr. Allen replied in the affirmative.

Chair Kile opened public testimony.

Robert Rasmussen spoke in opposition to this request. He stated that he does not live immediately facing this property but lives down the street. He expressed his concern about the zoning ordinances not being adhered to and setting precedence. He further stated the applicant knew about the hardships when he purchased the property.

Board Member Ozer advised that variance requests stand on their own merit and do not set precedence.

Chair Kile provided information on the purpose of the Board of Adjustment. She stated that she understands Mr. Rasmussen's concerns and thanked him for taking the time to come express his concerns.

Richard Driml stated that he lives across the street. He expressed his concern regarding the proposed height and that the roof deck would look down into his house. He requested

additional information on the balcony. Mr. Allen provided additional information on the proposed roof deck.

Board Member Kaufmann stated that she is envisioning a block wall that would upset the neighbor's view. She further stated having said that she appreciates the architectural design. Robert Therien, architect, stated that they are looking to be good neighbors and that the mock up does not show the proposed landscaping. He further stated that it will not look like a block wall. He provided information on the proposed landscaping that will provide screening. He reported that they have no problem working with the neighbors. He further reported that what is being proposed will add value to the neighborhood.

Mr. Therien responded to questions and comments from the Board members regarding the proposed request.

Chair Kile closed public comment.

Board Member Ozer moved for approval of Case No. BA-09-01, a request by Matthew Keister, property owner of 7026 East McDonald Drive, for a variance from the Open Space criteria in the Zoning Ordinance, Article X, Height and Other Regulations, to allow a new single family residence.

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

Seconded by Board Member Wainwright.

Chair Kile stated that in many respects she agrees with the comments made by the public. She further stated she also believes that the reason for the Board of Adjustment is to allow flexibility when requests meet the variance criteria. She noted that she thinks it is unfortunate that roof decks are allowed because they are difficult to screen and part of the joy of having a large lot is being able to enjoy a backyard but obviously trees will block it from the neighbors. She further noted that even without the variance the applicant would have the ability to put in a roof deck.

Chair Kile stated that this is one of the most decrepit homes that she has seen especially with someone living in it. She explained that she knocked on the door to let them know she would be walking around the property and was appalled at the condition of the house. There is quite a bit of water in the pool that is bright green and that concerns her from a health standpoint. She further stated that she knows the pool is not part of the variance but it needs to be drained. Ms. Cutro stated that is a code violation and she would make code enforcement aware of the situation.

Chair Kile stated this house is an eyesore and knocking it down will be an improvement.

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Board Member Wainwright stated that he is very sensitive to the notion that the Town has codes for a reason and we have standards for a reason but the Town has lots that are not exactly the same and it is the Board's job to recognize that not all lots are the same and that the ordinance can cause hardships.

Board Member Kaufman stated that the architect has stated that he will work with the neighbors and that is very important.

Chair Kile called for the vote.

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

## **MINUTES APPROVAL**

### **December 3, 2008 meeting minutes**

Chair Kile stated that the minutes contained a few typographical errors. On page 3, fifth paragraph, third sentence, the word *exit* should be changed to *exist*. On page 4, third paragraph, the words *sing-out* should be changed to *sign-out*.

Board Member Wainwright moved to approve the meeting minutes of December 3, 2008 as amended. Second by Board Member Kauffman.

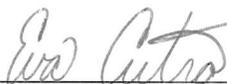
The motion passed unanimously by a vote of five (5) to zero (0).

## **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 advice regarding the requests described under Regular Business as authorized by ARS. 38-431.03.A.3.

## **ADJOURNMENT**

Chair Kile adjourned the meeting at 6:20 PM.



Eva Cutro, Secretary