

**Minutes
BOARD OF ADJUSTMENT
AUGUST 26, 2009**

The study session of the Board of Adjustment began at 5:30 p.m., in the Council Chambers, 31 East Fifth Street, Tempe, Arizona.

Present:

Jeff Winter
Slade Lawson
Matt Taillon
Dave Maza
Joe Arredondo
Jonathan Gillan
Dr. Adhikari

Steve Abrahamson, Planning & Zoning Coordinator
Sherri Lesser, Senior Planner
Shawn Daffara, Planner II

Absent:

Dr. Wallis Stemm
Todd Green

There were 4 citizen(s) at the pre-session.
Elections of Board Chair and Vice Chair were postponed until after the hearing.
The Study Session adjourned at 5:50 p.m.

Minutes of the regular hearing of the Board of Adjustment, of the City of Tempe, which was held at the Council Chambers, 31 East Fifth Street, Tempe, Arizona.

Present:

Jeff Winter
Slade Lawson
Dr. Adhikari
Matt Taillon
Dave Maza
Joe Arredondo
Jonathan Gillian

Steve Abrahamson, Planning & Zoning Coordinator
Sherri Lesser, Senior Planner
Shawn Daffara, Planner II

Absent:

Dr. Wallis Stemm
Todd Green

Number of Interested Citizen(s) Present: 10

Hearing convened at 6:00 p.m. and was called to order by Chairman Arredondo.

Dave Maza noted that the motion/vote for the November 19, 2008 Brown Residence Appeal should indicate a vote of 0 -7 which denied the applicant's appeal.

On a motion by Dave Maza, seconded by Dr. Adhikari, the Board by a vote of 6-0 approved the Board of Adjustment Minutes for November 19, 2008 as corrected.

(Jonathan Gillan abstained from this vote as he was not in attendance at the November 19, 2008 Board of Adjustment hearing.)

THE BOARD DISCUSSED THE FOLLOWING CASE(S):

Appeal of the July 7, 2009 Hearing Officer's decision to modify the following requests by the **ALLISON RESIDENCE (PL090157/VRA09001/VRA09009)** (James Allison, applicant/property owner) located at 9338 South Dateland Drive in the R1-15, Single Family Residential District.

VAR09004 Variance to reduce the rear yard setback from thirty (30) feet to eight (8) feet.
Setback approved to fifteen (15) feet by the Hearing Officer

VAR09009 Variance to reduce the south street side yard setback for a lot adjacent to a key lot from thirty (30) feet to twenty (20) feet.
Setback approved to twenty-seven (27) feet by the Hearing Officer

Sherri Lesser, staff planner, gave a brief overview of the case, explaining the key lot designation. She noted that the Board was hearing two (2) appeals; one from the applicant requesting to modify what the Hearing Officer had approved. The second appeal was from the neighbor to the west to overturn the variances granted by the Hearing Officer.

The first appeal from the applicant was a request for following:

VAR09009 Applicant is requesting a reduction to the rear yard setback from thirty (30) feet to twelve (12) feet. The setback would comply with the twenty percent (20%) use permit standard per the Zoning and Development Code if the house was situated as a side yard.

VAR09004 Applicant is requesting a reduction to the south street side yard setback for a lot adjacent to a key lot from thirty (30) feet to twenty-four (24) feet which would comply with the twenty percent (20%) use permit standard per the Zoning and Development Code.

Mr. James Allison was present to represent this case. Mr. Allison referred to other lots adjacent to 'key' lots within the subdivision, stating that they had been allowed to build within the thirty (30) foot setback.

Ms. Lesser explained to the Board that had Mr. Allison applied for a use permit standard to reduce the setbacks, he would not have been required to prove hardship as a condition for approval.

The second appeal was represented by Attorney George Welch Jr., representing Tom Reynolds, the homeowner/neighbor to the west of the Allison property, spoke in opposition to this request. He stated that his client was appealing the variances approved by the Hearing Officer based on no hardships established by the applicant for the variances requested.

Ms. Karen Martin spoke in support of this request and did not feel that this request was detrimental to the neighborhood or housing values, nor did it present any driving hazard. She presented a letter of support to the Board, noting that she resides directly across the street from the Allison's property at 211 West Knox Road.

Ms. Rene Fletcher, spoke in support of this request stating that she had been a resident since 1965 and that she and her husband had driven thru the neighborhood prior to the Hearing Officer hearing and saw several residences with garages close to the property lines. She did not feel that the Allison's request was unrealistic and was in keeping with the character of the neighborhood. She resides in the neighborhood near Hardy and Guadalupe.

Ms. Dawn Bulriss, spoke in opposition, stating that she is a neighbor to the north of the Allison Residence at 9326 South Dateland. She felt that this request would result in over-saturation of this property and that the Hearing Officer had been very generous with his modifications of Mr. Allison's request.

As a rebuttal after the public comments, Mr. Allison stated that the main house has eleven foot (11') walls and an eight foot (8') garage door. He is asking for the same wall and door dimensions in order to be compatible with the main house and neighborhood.

Matt Taillon asked whether matching the main house in materials was going to be a problem, and how staff made sure that the addition is compatible. Ms. Lesser responded that this issue is covered by the Conditions of Approval.

Jonathan Gillan questioned the applicant why he needed an extra three (3) feet on two (2) sides . . . what was the purpose. Mr. Allison responded that it is more economical to build the structure a bit larger and to have space for his workshop.

Dave Maza asked why the structure could not be connected to the main house. Mr. Allison stated that would require that the roof system be redone and a bathroom would have to be moved.

As a rebuttal after the public comments, Attorney George Welch Jr. returned to the podium to restate that there is no justification for hardship circumstances for Mr. Allison's request for these variances, and that they should not be granted just because there are other structures in the neighborhood where variances have been granted in the past. He stated that Mr. Allison wants to build a structure in an area that was never meant to have a structure on it at the expense of his neighbors. The existing setback requirements are there for a reason he stated, and there is no basis to approve this request.

FIRST MOTION: Jeff Winter made a motion to approve Mr. Allison's appeal of the Hearing Officer's decision to modify the variance requests; Jonathan Gillan seconded the motion.

VOTE: Denied the Appeal and upheld the Hearing Officer's decision.
0 – 7 (Unanimous)

SECOND MOTION: Jeff Winter made a motion to approve Mr. Reynold's appeal to overturn the Hearing Officer's decision and deny the previously granted variances; Matt Taillon seconded the motion.

VOTE: Denied the Appeal and upheld the Hearing Officer's decision.
2 – 5 (Dave Maza & Slade Lawson voted to approve the second appeal.)

At the suggestion of Steve Abrahamson, Planning and Zoning Coordinator, it was agreed by the Board members to table the elections of the Board Chair and Vice Chair to the next Board of Adjustment hearing in order that staff could research the number of terms allowed per representative.

MOTION: Chairman Arredondo made a motion to adjourn this hearing; Matt Taillon seconded the motion.

VOTE: Approved 7 – 0

The next Board of Adjustment hearing is scheduled for September 23, 2009.

There being no further business the hearing adjourned at 7:27 p.m.

Prepared by: Diane McGuire, Administrative Assistant II

Reviewed by:



Steve Abrahamson
Planning & Zoning Coordinator

SA:dm