

Board of Adjustment

Minutes

City Council Chambers, Lower Level

October 4, 2017

Boardmembers Present:

Trent Montague, Chair
Wade Swanson
Steve Curran
Kathy Tolman
Chris Jones
Adam Gunderson

Board Members Absent:

Ken Rembold, Vice Chair (excused)

Staff Present:

John Wesley
Kim Steadman
Lisa Davis
Charlotte Bridges
Charlotte McDermott
Mike Gildenstern

Others Present:

Jessica Bagley
Stephen Earl
(others present)

The study session began at 5:00 p.m. and concluded at 5:31 p.m. The Public Hearing began at 5:37 p.m., before adjournment at 6:06 p.m., the following items were considered and recorded.

Study Session began at 5:00 p.m.

- A. Zoning Administrator's Report
None

- B. The items scheduled for the Board's Public Hearing were discussed. Boardmember Jones recused himself from Case BA17-036 due to a conflict of interest.

Study Session adjourned at 5:31 p.m.

Public Hearing began at 5:37 p.m.

A. Consider Minutes from the August 2, 2017 Meeting, the August 2, 2017 Executive Session, and the September 6, 2017 Meeting

B. Consent Agenda:

B. 1. A motion to approve the minutes of the August 2, 2017 Meeting, the August 2, 2017 Executive Session, and the September 6, 2017 Meetings Minutes, as read by Boardmember Curran, was made by Boardmember Swanson and seconded by Boardmember Jones.

Vote: 6-0 Approved (Boardmember Rembold-excused)

B. 2. A motion to approve the consent agenda as read by Boardmember Curran with the acceptance of Findings of Fact and Conditions of Approval was made by Boardmember Swanson and seconded by Boardmember Jones.

Vote: 6-0 Approved (Boardmember Rembold-excused)

Public Hearing adjourned at 6:06 p.m.

Case No.: BA17-036 APPROVED WITH CONDITIONS

Location: 648 East Lehi Road (District 1)

Subject: *Requesting variances to allow 1) a detached accessory structure to encroach into the required west side yard, and 2) an accessory dwelling unit to encroach into the required east side yard, and 3) deviation from the required minimum dimensions for covered parking in the RS-43 District. (PLN2017-00338)*

Decision: Approved with Conditions

Summary: The applicant, Jessica Bagley, 648 East Lehi Road, presented the Case to the Board.

Boardmember Swanson confirmed with the applicant that the structure was constructed in November 2016 by the applicant's husband, who is a licensed contractor. Boardmember Swanson also stated that from the applicant-submitted photos, that there are many different structures at many different heights in the immediate area.

The applicant added that she sent out a letter explaining the project, and most (9) of the neighbors sent the letter back with signatures expressing support for the project.

Boardmember Montague confirmed with the applicant that the immediately-adjacent property owners to the west at 644 East Lehi (Tom and Sara Ahdoot), were also in support of the project.

Boardmember Gunderson confirmed with the applicant that the original structure component stands 12' tall, and that the northern and southern addition to the building measure 15' tall each. The applicant went on to explain to the Board that the center component of the structure was only a shop, but then her husband added the 15' tall front (south) and 15' tall rear (north) portions of the building to expand the shop in the front and to add a home office in the back.

Boardmember Curran confirmed with the applicant that a permit was not obtained for the construction done in November 2016.

Boardmember Swanson explained that he felt that special conditions apply to the land, and that not granting a variance for height will deprive the property owner of privileges enjoyed by others in the area. He went on to say that because this will not create a special privilege, there is justification for the variance. Boardmember Swanson concluded by saying that he is troubled that a licensed contractor built this structure without pulling permits, and the potential permissibility issues with this particular home business being conducted at the property, but would be supportive of the variance for height.

Chair Montague confirmed with Boardmember Swanson that if the applicant had pulled a permit and requested an increase to the 15' height, that he would be supportive based on similar height variations in the area.

Boardmember Tolman agreed with Boardmember Swanson and felt that granting this variance wouldn't deprive others in the area, and only questioned why the applicant didn't pull a permit for the project.

Boardmember Gunderson agreed, and stated that if the applicant had come to the Board before construction for the height variance, he would have likely supported it.

Boardmember Swanson proposed removing Condition #3 *"Modify the detached accessory building height to be no more than 10 ft. high measured at the mid-rise of the roof"*, and to grant the variance.

Boardmember Curran clarified that the applicant will need to obtain all necessary building permits.

Motion: A motion to approve case BA17-036, with the deletion of Condition #3 *"Modify the detached accessory building height to be no more than 10 ft. high measured at the mid-rise of the roof"*, with the acceptance of Findings of Fact and Conditions of Approval as read was made by Boardmember Swanson and seconded by Boardmember Gunderson to approve with the following conditions:

1. *Compliance with the site plan and elevations submitted except as modified by the conditions listed below.*
2. *Compliance with all requirements of the Development Services Division with regards to the issuance of building permits.*
3. *Issuance of a building permit for the addition to the home.*
4. *Issuance of building permits for all accessory structures.*
5. *Any future construction on the site must comply with Zoning Ordinance.*

Vote: Passed: 5-0-1 (Boardmember Rembold-excused, Boardmember Jones-recused)

The Board's decision is based upon the following Findings of Fact:

FINDINGS:

- A. The property was annexed into the City of Mesa in 1970 and historical aerial photos show a home and a detached accessory structure to the east of the home existing on the property at the time of annexation.
- B. The lot is surrounded by homes and lots of similar size and shape.
- C. The existing lot is undersized for a standard RS-43 zoned lot, but has a lot of depth (105' X 230') The parcel is 25,709 sq. ft. in total area. The lot is 17,851 sq. ft. smaller than the minimum lot area for a RS-43 lot.
- D. A detached accessory structure existed on the property prior to the applicant's ownership and the additions to the building follow the same plane as the original building and do not encroach significantly further in the side yard setback.
- E. The detached accessory structure is located \pm 147' behind the front property line.
- F. The accessory dwelling unit existed prior to the applicant ownership.

- G. One covered parking space and additional uncovered parking spaces exist behind the front yard setback.
- H. There have been many variances granted in the Lehi area to address older buildings and properties that do not meet current MZO requirements.
- I. Prior to 2011, the MZO required two parking spaces behind the front setback in Residential Single-Family zoning districts, but did not require the spaces to be covered.
- J. In all RS Residential Single Dwelling Districts, the MZO 11-30-17.B.1 allows a non-residential (detached) accessory building to encroach into the required rear and side yards if it is within the rear one-quarter of the lot and does not exceed 10 ft. in height.
- K. In all RS Residential Single Dwelling Districts, MZO 11-30-17.B.2 allows a non-residential (detached) accessory building to be located within the required rear yard but outside of the required side yard provide that the building does not exceed 15 ft. in height.
- L. The MZO 11-31-3.C requires an Accessory Dwelling Unit (a secondary living quarters) to conform to all setbacks, height, lot coverage and other requirements applicable to the primary dwelling unit, based on the zoning district requirements.
- M. The required aggregate side yard setback of 30' is achieved at various points within the site, but neither the 10' setback nor the 20' setback is consistently provided.
- N. The ADU encroaches 1' into the required 10' side yard setback for 30 linear feet (or 13%) of the 230' deep lot.
- O. The detached accessory structure encroaches up to 17 linear feet into the required 20' side yard setback for 61' (or 27%) of the 230' deep lot.

Case No.: BOA17-00214 APPROVED WITH CONDITIONS

Location: The 1200 to 1300 blocks of South Gilbert Road (west side) (District 4)

Subject: *Requesting a Special Use Permit (SUP) to modify a Comprehensive Sign Plan (CSP) in the LC District.*

Decision: Approved with Conditions

Summary: This item was on the consent agenda and not discussed on an individual basis.

Motion: A motion to approve case BOA17-00214 with the acceptance of Findings of Fact and Conditions of Approval as read was made by Boardmember Swanson and seconded by Boardmember Jones to approve with the following conditions:

1. *Compliance with the sign plan submitted, except as modified by the conditions listed below.*
2. *Compliance with all requirements of the Development Services Division in the issuance of sign permits.*
3. *Compliance with all conditions of approval for Design Review, DR17-034.*
4. *Compliance with the conditions of approval of the original Comprehensive Sign Plan of the center, BA81-089, except as herein modified.*

Vote: Passed: 6-0 (Boardmember Rembold-excused)

The Board's decision is based upon the following Findings of Fact:

FINDINGS:

- A. The proposed monument sign is approximately 264' north of the nearest existing monument sign utilized for the Mi Amigos and 314' south of the existing Circle K sign at the northeast corner of the site.
- B. The Monument sign design, size and height, and the attached sign details are all consistent with the Comprehensive Sign Plan, BA81-089, and approved modifications for the existing Mesa South Center.
- C. The CSP modifies the existing CSP adding one 8' high 14 square feet detached sign for Starbucks. This allows for a total of six (6) detached signs adjacent to Gilbert Road for the commercial center.
- D. The CSP modifies the existing CSP to allow an increase of one attached sign, for a total of three attached signs for Starbucks. This is consistent with the approved three attached signs for the Carl's Jr. in the same commercial center. At 92.5 SF, all three signs are less than the allowed 160 SF for attached signs.
- E. Five detached signs are existing adjacent to Gilbert Road. Given the dimension of the project adjacent to Gilbert Road at 1,075' the additional detached sign will fit the scale of the commercial development.
- F. The area allowed for detached signs is less than would be allowed by Code, and the allowed aggregate height is exceeded by only 1'-4" along the Gilbert Road frontage. Therefore, the additional detached sign for the project is justifiable.
- G. The scale and placement of the attached and detached signs is proportional and works well with the overall design and layout of the commercial center.
- H. The proposed signs incorporate the Starbucks logo both on the detached and attached signs. The architectural details show architectural and design features that are directly related to the building.

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- I. The proposed CSP is largely consistent with current MZO requirements and is complimentary to the development and consistent with the use of the property. Therefore, the CSP, with the recommended conditions, will be compatible with, and not detrimental to, adjacent properties or the neighborhood in general.

Case No.:	BOA17-00210 APPROVED WITH CONDITIONS
Location:	The 10700 to 10800 blocks of East Southern Avenue (south side) and the 1200 through 1300 blocks of South Signal Butte Road (west side) (District 6)
Subject:	<i>Requesting a Special Use Permit (SUP) for a Comprehensive Sign Plan (CSP) in the LC-PAD District.</i>
Decision:	Approved with Conditions
Summary:	<p>The applicant, Stephen Earl, Earl, Curley & Lagarde, P.C., 3101 N. Central Ave, Phoenix, representing Prudential and Kitchell, presented the case to the Board.</p> <p>Boardmember Tolman confirmed with the applicant that the 12' height dimension on the sign plan denotes the gray component on the top, and not the Sprouts sign, so in total, the top of the "Mountain Vista" text component measures 13'- 8" from top to bottom. Boardmember Tolman felt that the proposed signage was reasonable and was superior to the signage seen across Signal Butte Road.</p> <p>Staffmember Steadman clarified that 12' is generally the height limitation for signage, with some allowance for architectural embellishment at the top, and in this situation, the applicant felt that the "Mountain Vista" text component should be seen as embellishment.</p> <p>Planning Director Wesley stated that Staff sees the plaza name as signage and not embellishment, and that the sign is proposed at a height that is much higher than what has been allowed for many years in the City of Mesa.</p> <p>Boardmember Tolman stated that she felt that the additional height allowance is a reasonable tradeoff in place of sign clutter.</p> <p>Boardmember Swanson stated that the current 13'- 8" request is a good compromise from the initial 17'- 8" proposed, and that the sign would enhance the property.</p> <p>Boardmember Jones stated that he felt the reduced height was a good compromise.</p> <p>Boardmember Gunderson stated that the request meets all the requirements for a Comprehensive Sign Plan, and that adding an additional 1'- 8" is completely within the Board's legal boundaries.</p> <p>Chair Montague confirmed with Staff that if the language on Condition #4 is changed to allow a maximum height of 13'- 8", the total signage proposed would be at 56 sq. ft., so the 80 sq. ft. maximum specified could be maintained in the Condition.</p>

Motion: A motion to approve case BOA17-00210, with a modification to Condition #4 *"The three monument signs (sign "E") are limited to 13'- 8" to top of signage, and 80 SF of sign area"* with the acceptance of Findings of Fact and Conditions of Approval as read was made by Boardmember Swanson and seconded by Boardmember Jones to approve with the following conditions:

1. *Compliance with the sign plan submitted, except as modified by the conditions listed below.*
2. *Compliance with all requirements of the Development Services Division in the issuance of sign permits.*
3. *Compliance with the conditions of approved of Design Review, DRB17-00044.*
4. *The three monument signs (sign "E") are limited to 13'- 8" to top of signage, and 80 SF of sign area.*

Vote: Passed: 6-0 (Boardmember Rembold-excused)

The Board's decision is based upon the following Findings of Fact:

FINDINGS:

- A. The CSP proposes attached sign area for Majors which is significantly greater than would be allowed by current Code. Increased sign area has been justified by the need for attached signs to be in proportion to the scale of the building and complementary to building architecture, and the distance of buildings from adjacent street frontages.
- B. The CSP proposes attached sign area for Shops based on 1.5 SF of sign area per linear foot of building frontage. This is a reduction from Code. The CSP matches Code with the 160 SF sign area cap.
- C. The CSP proposes attached sign area for Pads based on 1.5 SF of sign area per linear foot of building frontage. Sign number is increased to 4, from 2 to 3 (based on building size). The sign area cap is increased from 160 SF to 200 SF.
- D. Detached signage along Southern Avenue and Signal Butte Road is proposed to have an aggregate of 52' in height and 284 SF in sign area, distributed between 3 detached signs.
- E. Each detached sign, as proposed, exceeds the 12' cap for individual signs by 5'-4", and each sign area exceeds the 80 SF cap by 14.72 SF.
- F. The sign criteria within the CSP is tailored to this specific development and promotes superior design.
- G. The proposed CSP is complimentary to the development and consistent with the use of the property. Therefore, the CSP, with the recommended conditions, will be compatible with, and not detrimental to, adjacent properties or the neighborhood in general.

Case No.: BOA17-00178 APPROVED WITH CONDITIONS

Location: The 100 block of South Power Road (east side) and the 6800 block of East Main Street (south side) (District 5)

Subject: *Requesting a Special Use Permit (SUP) for a Comprehensive Sign Plan (CSP) in the LC District.*

Decision: Approved with Conditions

Summary: This item was on the consent agenda and not discussed on an individual basis.

Motion: A motion to approve case BOA17-00178 with the acceptance of Findings of Fact and Conditions of Approval as read was made by Boardmember Swanson and seconded by Boardmember Curran to approve with the following conditions:

1. *Compliance with the sign plan submitted, except as modified by the conditions listed below.*
2. *Compliance with all requirements of the Development Services Division in the issuance of sign permits.*
3. *Compliance with all condition of approval for Design Review case, DR16-029.*
4. *New signage requires the review and approval of a separate building permit.*

Vote: Passed: 6-0 (Boardmember Rembold-excused)

The Board's decision is based upon the following Findings of Fact:

FINDINGS:

- A. The proposed additional attached sign is on the north elevation of the Human Bean pad building.
- B. The sign criteria within the CSP is tailored to this specific development and creates a degree of normal visibility, especially for traffic traveling south on Power Road.
- C. The placement of the third sign on a separate elevation meets the Code intent of avoiding "overconcentration" of signage.
- D. The proposed CSP is largely consistent with current Code requirements and is complimentary to the development and consistent with the use of the property. Therefore, the CSP, with the recommended conditions, will be compatible with, and not detrimental to, adjacent properties or the neighborhood in general.

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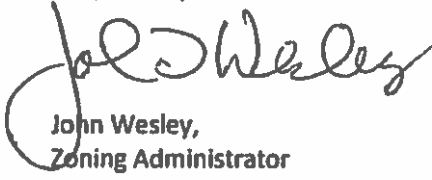
OTHER BUSINESS:

None

ITEMS FROM CITIZENS PRESENT

None

Respectfully submitted,

A handwritten signature in black ink, appearing to read "John Wesley". The signature is written in a cursive style with a large, looping initial "J".

John Wesley,
Zoning Administrator