



Board of Adjustment

Minutes

City Council Chambers

August 1, 2018

Boardmembers Present:

Wade Swanson, Chair
Trent Montague
Ken Rembold
Steve Curran
Kathy Tolman

Board Members Absent:

Chris Jones, Vice Chair
Adam Gunderson

Staff Present:

John Wesley
Kim Steadman
Charlotte Bridges
Veronica Gonzalez
Erik Hansen
Charlotte McDermott
Mike Gildenstern

Others Present:

Perry Singh	Sarah Spradlin
Dr. Dan Bramley	Susan Woodruff
Greg Medico	Leilani Harris
Chad Brackman	Stephanie Scott
Anika Robinson	Theresa Buelteman
Stephen Javinett	Benjamin Lee
Adam Baugh	Dolores McEwan
Robert McEwan	Cynthia Elliot
Charlie Caroll	Shirley Ward
Lindsay Story	Richard Graham
Darren Passey	Terry Wiley
Cara Thornley	Roger Crawford
Marie Brophy	Kenneth Story
Jacob Sullivan	Jim Ward
Julee Passey	Kenneth Buelteman
Lorraine Carroll	Kim Vehon
Joe Cook	Angela Teachout
Jacob Sullivan	Dolores McEwan

(others present)

The study session began at 4:30 p.m. and concluded at 5:01 p.m. The Public Hearing began at 5:30 p.m., before adjournment at 7:51 p.m., the following items were considered and recorded.

Board of Adjustment Study Session

1. Call meeting to order

Study Session began at 4:30 p.m.

2. Zoning Administrator's Report

2-a NONE

3. Review and discuss items listed on the Public Hearing agenda for August 1, 2018.

The items scheduled for the Board's Public Hearing were discussed.

Item 3-b, Case BOA18-00423 (7830 East University Drive) was removed from the Consent Agenda

Item 3-d, Case BOA18-00340 (1160 East University Drive) was removed from the Consent Agenda

Item 3-f, Case BOA18-00495 (2612 North Robin Circle) was removed from the Consent Agenda

4. Adjournment

Study Session adjourned at 5:01 p.m.

Board of Adjustment Public Hearing

Call meeting to order

Public Hearing began at 5:30 p.m.

1. Take action on all consent agenda items.

Items on the Consent Agenda

2. Consider the Minutes from the July 11, 2018 meeting

On a motion by Boardmember Rembold and seconded by Boardmember Curran, the Board unanimously approved the July 11, 2018 minutes and Consent Agenda as read by Boardmember Montague.

Vote: 5-0 (Absent: Vice Chair Jones, Boardmember Gunderson)
Upon tabulation of vote, it showed:
AYES – Swanson, Montague, Rembold, Curran, Tolman
NAYS – None

3. Take action on the following cases:

A motion to approve the cases on the consent agenda as read by Boardmember Montague was made by Boardmember Rembold and seconded by Boardmember Curran.

Vote: 5-0 (Absent: Vice Chair Jones, Boardmember Gunderson)
Upon tabulation of vote, it showed:
AYES – Swanson, Montague, Rembold, Curran, Tolman
NAYS – None

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***3-a** **Case No.: BOA18-00326 TABLED**

Location: 4142 East Valley Auto Drive (District 2)

Subject: *Requesting a Variance to allow a reduction in the required landscape setback along the north property line in the LI District.*

Decision: Tabled

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

Motion: A motion to table case BOA18-00326 as read by Boardmember Montague was made by Boardmember Rembold and seconded by Boardmember Curran.

Vote: 5-0 (Absent: Vice Chair Jones, Boardmember Gunderson)
Upon tabulation of vote, it showed:
AYES – Swanson, Montague, Rembold, Curran, Tolman
NAYS – None

3-b Case No.: BOA18-00423 APPROVED WITH CONDITIONS

Location: 7830 East University Drive (District 5)

Subject: *Requesting: 1) a Special Use Permit (SUP) to allow a community center to be located in the RM-4 and RS-43 Districts; and 2) a Substantial Conformance Improvement Permit (SCIP) to allow modifications to development standards in the RM-4 District.*

Decision: Approved with Conditions

Summary: The applicant, Anika Robinson, President of ASA Now, 4059 E. Claxton Ave, Gilbert, and Adam Baugh, Withey Morris, 2625 E. Arizona Biltmore Circle, Phoenix, presented the case to the Board.

Susan Woodruff, 4235 E. Harwell Court, Gilbert, Vice President of ASA Now, spoke in support of the project, as she felt that it will provide a great resource for the foster family community.

Leilani Harris, 327 N. Calle Largo, was concerned about the increased traffic, and was curious if a sufficient traffic study had been done. She was also concerned about decreased home values in the area, and she was curious if proper notice requirements were met with the mailing of the erroneous neighborhood notification letters

Stephanie Scott, 1645 E. Grove Avenue spoke in support of the project, as she felt that it will provide a great resource for the foster family community.

Theresa Buelteman, 7805 E. Contessa, spoke in opposition of the project, due to the potential increased traffic, excessive noise generation, and disciplinary issues with the children at the site.

Benjamin Lee, 906 W. Holstein Trail, San Tan Valley, spoke in support of the project, as he felt that it will provide a great resource for the foster family community.

Dolores McEwan, 7748 E. Camino Street, was opposed to the project, but did not wish to speak.

Robert McEwan, 7748 E. Camino Street, was opposed to the project, due to the potential excessive noise generation from the children and horses on the property.

Cynthia Elliot, 1219 E. 2nd Place, spoke in support of the property, as she felt that it will provide a great resource for the foster family community.

Charlie Carroll, 457 N. Palo Verde Circle, spoke in opposition to the project, due to the potential excessive noise generation.

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Shirley Ward, 7757 E. Caballero Circle, spoke in opposition to the project, due to the potential excessive noise generation, crime, and decrease in home values. Mrs. Ward was also concerned about the use of the “community center” label, as she felt that the project would attract people from outside of the immediate area. Mrs. Ward also felt that only indoor activities should be conducted onsite, and she was opposed to the planned two-story building component.

Lindsay Story, 7835 E. Contessa Circle, spoke in opposition to the project, due to the hours of operation, the potential noise generation, and the light trespass. Ms. Story suggested planting dense trees on the perimeter of the property to buffer the noise generated from the site.

Richard Graham, 7751 E. Camino Street, spoke in opposition to the project, was concerned about the smell, noise, and flies generated by the proposed horse stables on-site.

Darren Passey, 7749 E. Caballero Circle, spoke in opposition to the project, due to the potential increased traffic and the excessive noise generation, and was concerned if the noticing requirements were met.

Terry Wiley, 455 N. Greenwood, spoke in opposition to the project, and was concerned about the smell, noise, and flies generated by the proposed horse stables on-site.

Cara Thornley, 642 N. Calle Largo, spoke in opposition to the project due to the potential noise generation and she was concerned about the privacy issues with the proposed two-story building overlooking neighboring properties.

Roger Crawford, 7765 E. Caballero Circle, spoke in opposition to the project, due to the potential increased traffic and the excessive noise generation, and was concerned about the smell, noise, and flies generated by the proposed horse stables on-site.

Marie Brophy, 7758 E. Caballero Circle, spoke in opposition to the project, due to the potential trespassing from the adjacent property, and she was concerned about the smell, noise, and flies generated by the proposed horse stables on-site.

Kenneth Story, 7835 E. Contessa Circle, spoke in opposition to the project, due to the potential excessive noise generation and he was concerned about the smell, noise, and flies generated by the proposed horse stables on-site.

Jacob Sullivan, 442 N. Calle Largo, spoke in favor of the project, as he felt that it will provide a great resource for the foster family community.

Those opposed to the project, but who did not wish to speak

Jim Ward- 7757 E. Caballero Circle
Julee Passey- 7749 E. Caballero Circle
Kenneth Buelteman- 7805 E. Contessa Circle
Lorraine Carroll, 457 N. Palo Verde Circle

Those in support of the project, but who did not wish to speak

Kim Vehon- 6747 E. Albany Street
Joe Cook- 3463 S. Rim Road
Angela Teachout- 1486 E. Tierra Street

The applicant, Adam Baugh explained that the ASA Now site in Gilbert operates next to a residential district, and there hasn't been any issues, and he went on to explain that the parcel is located next to an arterial street, so he didn't anticipate a traffic issue. Mr. Baugh stated that the neighborhood notification letters contained a typographical error, in regards to the address of the property, but there was a second, broader mailing with the corrected site address. He explained that the children will be under constant supervision, and hours of operation could vary and wouldn't necessarily go all day, adding that the site will predominantly be used after school and weekends. Mr. Baugh explained that the horses would be brought in and supervised by the handler for the equine therapy component, and then removed upon completion. He went on to offer potentially changing the site plan of property to better accommodate the neighbors, and he closed by saying that the requested Special Use Permit could be revoked if the conditions of approval weren't being met.

Boardmember Rembold appreciated the applicant's willingness to meet and negotiate with the neighbors.

The applicant explained to Boardmember Curran that his client felt that equine therapy is critical to the program, but the placement of the corrals and the time of use could be modified. Mr. Baugh added that it is not the intent of his client to board the horses at the site, but to only have horses on the property for a few hours, a couple times a week. He went on to explain to Boardmember Curran that there could be up to 30 children onsite initially (with up to roughly a dozen outside at any given time), and potentially up to 100 people outside during special events.

Zoning Administrator Wesley explained to the Board that they could modify conditions to be more specific regarding the site plan and usage, and that a continuance of the Case could be an option if the Board wasn't comfortable with a vote at this time.

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Boardmember Montague explained that if the applicant was developing the site in compliance with the Zoning Ordinance and Building Code, he didn't see a reason to be overly specific in the Conditions of Approval.

Boardmember Rembold stated that he was in favor of the project and felt that it was a good use for the site.

Boardmember Montague explained that he was concerned with the use change but felt that it was appropriate as the site is located on an arterial street.

Boardmember Curran explained that he would like to see the site plan and operation details better specified, so the local homeowners could have a better idea of the expected impact and use.

Zoning Administrator Wesley explained to the Board that the Good Neighbor Policy presented by the applicant is in line with the requested Special Use Permit, specifically in the operation plans outlined in the narrative.

Staffmember Steadman added that in the applicant's Good Neighbor Policy, there are components regarding compliance with light trespass, hours of operation, how neighbors could lodge complaints, and specific details on the operation of the planned equine therapy program.

Boardmember Rembold stated that he felt that the increased traffic issue has not been sufficiently addressed.

Boardmember Tolman encouraged the applicant to meet with the neighbors to alleviate some of their concerns

Boardmember Montague stated that he was supportive of the project, and that he wouldn't need the case to be continued to be more comfortable with his position.

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Motion: A motion to approve case BOA18-00423 with the acceptance of Findings of Fact and Conditions of Approval was made by Chair Swanson and seconded by Boardmember Tolman to approve with Staff conditions as modified below:

1. Compliance with all requirements of the Development Services Department in the issuance of building permits except as modified by this request.
2. Compliance with the site plan to be submitted and approved by the Planning Director
3. Compliance with the Plan of Operation and the Good Neighbor Policy in the Project Narrative.
4. The outdoor activity areas may only be used between the hours of 7:00 a.m. and 9:00 p.m. and at least one staff member must be present at all times when the outdoor activity area is in use.
5. Project lighting shall be designed to minimize glare and light trespass from the subject site to the adjacent residential properties in accordance with MZO 11-30-5.

Vote: 4-1 (Absent: Vice Chair Jones, Boardmember Gunderson)
Upon tabulation of vote, it showed:
AYES – Swanson, Montague, Rembold, Tolman
NAYS – Curran

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

FINDINGS for Request #1 – SUP for a Community Center in the RS-43 and RM-4 Districts

- A. The proposed community center activities take place within two main buildings, and outdoors in the proposed activity areas at the north part of the site.
- B. Hours of operation – The community center hours of operation will be 7:00 a.m. to 9:00 p.m. seven days a week.
- C. The project narrative includes a Plan of Operation & Good Neighbor Policy.
- D. Internal property lines all have existing CMU walls.
- E. The project narrative establishes compliance with lighting standards, equine standards and site/litter control standards.
- F. The Plan of Operation provides contact information and protocol for complaints about compliance with the SUP.

FINDINGS for Request #2: SCIP:

- A. The request for a SCIP would allow for the reuse of a vacant church/site to a community center.
- B. The change of use invokes conformance to current development standards.
- C. The proposed new improvements with the recommended conditions of approval help bring the site into a closer degree of conformance with current standards.
- D. Full compliance with current code would require removal or relocation of existing improvements.
- E. The proposed improvements will result in a development that is compatible with, and not detrimental to, adjacent properties or neighborhoods.
- F. The deviations requested along with the conditions of approval are consistent with the degree of change requested to improve the site and will help bring the site into a closer degree of conformance with current standards.
- G. A Community Center is considered a Semi-Public use in the residential districts. This is not one of the uses for which Site Plan Review is required per MZO 11-69-2.

***3-c Case No.: BOA18-00325 APPROVED WITH CONDITIONS**

Location: 1150 West Southern Avenue (District 3)

Subject: *Requesting a Substantial Conformance Improvement Permit (SCIP) to allow modifications to development standards 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 BOA18-00325 as read by Boardmember Montague with the acceptance of Findings of Fact and Conditions of Approval was made by Boardmember Rembold and seconded by Boardmember Curran to approve with the following conditions:

1. Compliance with the site plan submitted, except as modified by the conditions below;
2. Compliance with all requirements of the Development Services Division regarding the issuance of building permits.
3. Compliance with all requirements of case ZON18-00351.

Vote: 5-0 (Absent: Vice Chair Jones, Boardmember Gunderson)
Upon tabulation of vote, it showed:
AYES – Swanson, Montague, Rembold, Curran, Tolman
NAYS – None

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

FINDINGS:

- A. The site is zoned LC and is part of an existing shopping center.
- B. Proposed modifications to the site include a 502 square foot building addition, addition of overhead doors, revisions to site circulation, addition of a landscape island, refacing the building and refreshing the landscaping.
- C. Full compliance with current development standards would require removal or relocation of existing improvements.
- D. The modifications requested are proportional to the degree of change and will bring the site into substantial conformance.
- E. The proposed improvements will result in a development that is not detrimental to the adjacent properties or neighborhood.

3-d Case No.: BOA18-00340 APPROVED WITH CONDITIONS

Location: 1160 East University Drive (District 4)

Subject: *Requesting a Substantial Conformance Improvement Permit (SCIP) to allow modifications to development standards in the LC District.*

Decision: Approved with Conditions

Summary: The applicant, Perry Singh, 2662 N. Ridge Circle, presented the case to the Board.

Dr. Dan Bramley, 430 N. Stapley Drive, was concerned about potential overflow parking, and access to and through his property.

Chair Swanson stated that there is an Administrative Use Permit component to the Case that would address those types of issues, and that any kind of cross-access agreement would be handled privately among property owners.

Staffmember Gonzalez clarified that the Alternative Parking Permit would allow parking on the property that the applicant already owns south of University Drive.

Boardmember Tolman was curious why the applicant hadn't had the opportunity to reach out to neighbors prior to this meeting regarding a parking and cross-access agreement.

The applicant explained that they were unsure of how the off-site parking proposal would work out, and that they would address alternative parking and cross access concerns based on the result of this Meeting.

Staffmember Gonzalez explained that the proceedings at this Meeting were to entitle a Substantial Conformance Improvement Permit (SCIP), and not the Alternative Parking Permit, which would come through a different process.

Motion: A motion to approve case BOA18-00340 with the acceptance of Findings of Fact and Conditions of Approval was made by Boardmember Tolman and seconded by Boardmember Montague to approve with the following conditions:

1. Compliance with the site plan submitted, except as modified by the conditions below;
2. Compliance with all requirements of the Development Services Division regarding the issuance of building permits.
3. Provide the required parking spaces per Mesa Zoning Ordinance Section 11-32-3 unless an administrative permit is approved for alternative compliance per Mesa Zoning Ordinance Section 11-32-7A.
4. Pedestrian connections to the public sidewalk shall be of a material that differs from the drive aisle.
5. Remove all discontinued signs. Any new signage shall comply with the Mesa Zoning Ordinance sign requirements in effect at the time a sign permit is requested.

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Vote: 5-0 (Absent: Vice Chair Jones, Boardmember Gunderson)
Upon tabulation of vote, it showed:
AYES – Swanson, Montague, Rembold, Curran, Tolman
NAYS – None

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

FINDINGS:

- A. The site is zoned LC and is a vacant building that has been unused for many years.
- B. Proposed modifications to the site include additional parking spaces, a 400 square foot outdoor dining addition, a new building facade and updated landscaping.
- C. Full compliance with current development standards would require removal or relocation of existing improvements.
- D. The modifications requested are proportional to the degree of change and will bring the site into substantial conformance.
- E. The proposed improvements will result in a development that is not detrimental to the adjacent properties or neighborhood.

***3-e Case No.: BOA18-00490 APPROVED WITH CONDITIONS**

Location: 1158 West University Drive (District 1)

Subject: *Requesting a Special Use Permit (SUP) to allow 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 BOA18-00490 as read by Boardmember Montague with the acceptance of Findings of Fact and Conditions of Approval was made by Boardmember Rembold and seconded by Boardmember Curran to approve with the following conditions:

1. Compliance with the site plan, sign plan details, and project narrative submitted.
2. Compliance with the conditions of approval of ADM18-00493 for modification of the building color.
3. Compliance with all requirements of the Development Services Department in the issuance of sign permits.

Vote: 5-0 (Absent: Vice Chair Jones, Boardmember Gunderson)
Upon tabulation of vote, it showed:
AYES – Swanson, Montague, Rembold, Curran, Tolman
NAYS – None

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

FINDINGS:

- A. The CSP does not increase the amount of attached signage on site.
- B. The CSP proposes to exceed Code for the number of attached signs on the property, but proposes an aggregate sign area below the allowed Code maximums.
- C. The existing/proposed detached signage on site is below Code allowances for sign area and height.
- D. The sign criteria within the CSP is tailored to this specific development and enhances the characteristics of the land use.
- E. The CSP, with the recommended conditions, will be compatible with, and not detrimental to, adjacent properties or the district in general.

3-f Case No.: BOA18-00495 APPROVED WITH CONDITIONS

Location: 2612 North Robin Lane (District 1)

Subject: *Requesting a Variance to allow driveways to exceed the maximum combined width allowed in the RS-9 District.*

Decision: Approved with Conditions

Summary: The applicant, Greg Medico 2612 N. Robin Circle, and Chad Brackman, 3501 E. Claxton Ave., Gilbert, presented the case to the Board.

Boardmember Tolman clarified that the Board was only deciding how much front property line-abutting concrete driveway should be permitted.

Chair Swanson clarified that there is a total of 36' of driveway as it abuts the property line.

The Board discussed Condition #3, *"Remove a 5'-wide by 8'-deep area of concrete paving (as measured from the back of sidewalk) from the north side of the existing driveway."*

The applicant clarified for the Board and the concerned neighbor that the garage was used for automobile restoration in the past, but will only be used for woodworking, moving forward. He also requested that Condition #3 be removed.

The Board removed Condition #3 from the Conditions of Approval.

Motion: A motion to approve case BOA18-00495 with the acceptance of Findings of Fact and revised Conditions of Approval was made by Boardmember Montague and seconded by Boardmember Rembold to approve with the following conditions:

1. Compliance with the site plan presented at the hearing.
2. Compliance with all requirements of the Development Services Department in the issuance of a building permit.

Vote: 5-0 (Absent: Vice Chair Jones, Boardmember Gunderson)
Upon tabulation of vote, it showed:
AYES – Swanson, Montague, Rembold, Curran, Tolman
NAYS – None

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

FINDINGS:

- A. The property width provided enough space for the added garage to the north. The existing driveway width met the Code under which it was constructed.
- B. The special circumstance regarding the 39' driveway width is pre-existing and was created in conformance with Code. Code has since been revised to limit driveway width.
- C. Wider driveways are standard in this neighborhood which was developed with wide sites that accommodate wider driveways and additional garages. The aerial photo demonstrates a pattern of driveway widths that complied with Code, but now exceed current Code. Strict application of Code would require a 20' reduction in the existing driveway width (to allow a secondary driveway) creating a hardship.
- D. The proposed changes rebalance the existing 39' driveway width into 2 separate driveways, 29' and 10' wide. This results in new landscaping to soften the original driveway area. An additional 5' reduction in width (as proposed by staff) will bring the site closer to compliance without undue hardship and will not constitute a grant of special privileges in this neighborhood.

***3-g Case No.: BOA18-00515 APPROVED WITH CONDITIONS**

Location: 5916 East McKellips Road (District 5)

Subject: *Requesting a Special Use Permit (SUP) to allow for the reduction in required parking 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 BOA18-00515 as read by Boardmember Montague with the acceptance of Findings of Fact and Conditions of Approval was made by Boardmember Rembold and seconded by Boardmember Curran to approve with the following conditions:

1. Compliance with all requirements of the Development Services Department in the issuance of building permits including but not limited to replacing missing or non-thriving plant material per original landscape plan.
2. Future land uses must comply with the parking requirements in the Mesa Zoning Ordinance or apply for and receive a parking reduction.

Vote: 5-0 (Absent: Vice Chair Jones, Boardmember Gunderson)
Upon tabulation of vote, it showed:
AYES – Swanson, Montague, Rembold, Curran, Tolman
NAYS – None

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

FINDINGS:

- A. A parking demand study concluded that hourly demands for parking peak between 17 and 18 spaces, making the existing 27 spaces adequate to support the proposed use.
- B. Special conditions are cited in the parking demand study based on the parking usage at other Iora Primary Care clinics, concluding that the existing parking count is sufficient.
- C. The parking demand study establishes that Iora reduces parking demand by providing arranged transportation for patients.
- D. By MZO standards, the parking demand is 41 spaces for the building's 8,280 SF area, at a ratio of 1 /200 SF.
- E. This site shares automobile access between adjacent sites, but parking is not shared between sites. This site is required to self-park.
- F. The parking demand study establishes that the highest parking demand for this use is 18 spaces and occurs during the hours 9 A.M. through 11 A.M. Afternoon hourly demands range from 16 to 17 parking spaces. The use does not offer evening hours. As such, the 27 provided spaces meet the parking demands of the proposed use and will not have a detrimental impact on parking on the surrounding sites.

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Items not on the Consent Agenda

4. **Take action on the following cases:**
Item 3-b, Case BOA18-00423 (7830 East University Drive)
Item 3-d, Case BOA18-00340 (1160 East University Drive)
Item 3-f, Case BOA18-00495 (2612 North Robin Circle)

5. **Other business**

None.

6. **Items from citizens present**

None.

9. **Adjournment**

A motion to adjourn was made by Boardmember Tolman and seconded by Boardmember Rembold.

Vote: 5-0 Approved (Absent: Vice Chair Jones, Boardmember Gunderson)

Public Hearing adjourned at 7:51 p.m.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "John Wesley" or similar, followed by the initials "JW".

John Wesley,
Zoning Administrator