

## **Board of Adjustment**

### *Minutes*

#### **City Council Chambers, Lower Level**

**July 12, 2017**

**Boardmembers Present:**

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

**Board Members Absent:**

Steve Curran  
Ken Rembold

**Staff Present:**

John Wesley  
Lisa Davis  
Kim Steadman  
Cierra Edwards  
Charlotte McDermott  
Veronica Gonzalez  
Mike Gildenstern

**Others Present:**

Louis Verrone  
(others)

The study session began at 4:35 p.m. and concluded at 5:02 p.m. The Public Hearing began at 5:30 p.m., before adjournment at 6:43 p.m., the following items were considered and recorded.

**Study Session began at 4:35 p.m.**

- A. Boardmembers Jones and Gunderson were introduced to the Board.
- B. The items scheduled for the Board's Public Hearing were discussed. Condition #6 was struck in Case BA17-034.

**Study Session adjourned at 5:02 p.m.**

**Public Hearing began at 5:30 p.m.**

- a. Consider Minutes from the June 7, 2017 Meeting:

A motion was made by Boardmember Swanson, seconded by Boardmember Tolman, to approve the June 7, 2017 minutes as written.

Vote: Passed (5-0)

**B. Consent Agenda:**

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

Vote: Passed (5-0)

**Public Hearing adjourned at 6:43 p.m.**

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**Case No.:** BA17-032 CONTINUED TO AUGUST 2, 2017 MEETING

**Location:** 1842 West Broadway Road and 1911 West Broadway Road (District 3)

**Subject:** *Consider an appeal of a Zoning Administrator interpretation regarding the proximity of two medical marijuana dispensaries. The Zoning Administrator's interpretation is that the two medical marijuana dispensaries were registered as approved locations on the same day, and for this reason both locations are considered legal but non-conforming uses. The applicant is appealing this interpretation. (PLN2017-00188)*

**Decision:** Continued to August 2, 2017

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

**Motion:** A motion to continue Case BA17-032 was made by Boardmember Tolman and seconded by Boardmember Swanson to August 2, 2017.

**Vote:** Passed (5-0)

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**Case No.:** BA17-033 CONTINUED TO AUGUST 2, 2017 MEETING

**Location:** 1710 West Southern Avenue (District 3)

**Subject:** *Requesting a Substantial Conformance Improvement Permit (SCIP) to allow modifications to development standards for a restaurant with a drive through in the LC District. (PLN2016-00838)*

**Decision:** Continued to August 2, 2017

**Summary:** This item was moved to the consent agenda due to the applicant being unable to attend the Meeting and not discussed on an individual basis.

**Motion:** A motion to continue Case BA17-033 was made by Boardmember Montague and seconded by Boardmember Swanson to August 2, 2017.

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**Case No.:** BA17-034 APPROVED WITH CONDITIONS

**Location:** 5400 Block of S. Power Road (east side) (District 6)

**Subject:** *Requesting a Substantial Conformance Improvement Permit (SCIP) to allow modifications to development standards on the eastern portion of the lot for an existing industrial project in the LI District. (PLN2017-00297)*

**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 BA17-034 with the acceptance of Findings of Fact and Conditions of Approval as read was made by Boardmember Tolman and seconded by Boardmember Swanson to approve with the following conditions:

1. *Compliance with the site plan, landscape plan, elevations and narrative submitted, except as modified by the conditions below;*
2. *Compliance with all requirements and conditions of approval of zoning cases Z05-044, and Z17-011;*
3. *Compliance with all requirements and conditions of approval of Design Review case DR17-015;*
4. *Compliance with all requirements of the Development Services Division regarding the issuance of building permits;*
5. *Provide dust-proofing material, such as decomposed granite on all non-paved surfaces of the site; and,*

**Vote:** Passed (5-0)

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

**FINDINGS:**

- A. The industrial use existed on the site prior to annexation in 2005.
- B. The deviations requested are consistent with the degree of change requested to improve the site.
- C. The proposed improvements will bring the site into a closer degree of conformance with current standards.
- D. The proposed improvements will not create new non-conforming conditions.
- E. The proposed improvements will result in a development that is compatible with, and not detrimental to, adjacent properties or neighborhoods.

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**Case No.:** BA17-035 APPROVED WITH CONDITIONS

**Location:** 903 West Lindner (District 3)

**Subject:** *Requesting a variance to allow an addition to the primary residence to encroach into the required rear and side yards in the RS-6 District. (PLN2017-00337)*

**Decision:** Approved with Conditions

**Summary:** The applicant, Louis Verrone, 903 W. Lindner, explained the case to the Board.

Boardmember Tolman confirmed that the applicant went through a mortgage and title company when purchasing the house and the illegal addition was not mentioned at the time. She also confirmed with the applicant that the addition is not shown on the Maricopa County Assessor's site.

Boardmember Swanson confirmed with the applicant that the main house is 1809 sq. ft. and the extra room measures 410 sq. ft., bringing the total to 2219 sq. ft.

The applicant confirmed for the Board that Staff had explained the 4 Part Test for Variance to him. He stated that many homes in the neighborhood have encroaching additions, and that his property is not a perfect square, with the width measuring roughly 6% less in the back (74 ft. in the front, 69 ft. in the back). Mr. Verrone went on to say that he did not construct the addition, and that he is willing to pay any additional taxes on the unaccounted for square footage. Mr. Verrone added that he understands that he can still alter the building if the variance is denied, but the cost of engineering to redesign the trusses and modify the construction would exceed the value of the building, and would be cost prohibitive.

Boardmember Tolman confirmed with Staff that there is roughly 77 sq. ft. that encroaches in to the required setback.

Planning Director Wesley stated that the addition does not comply with setback requirements towards the front of the property, as well as the setbacks towards the rear of the property.

Boardmember Swanson stated that he felt that the shape of the lot is a special circumstance, that there are other properties in the neighborhood with similar encroachments, and that the condition was pre-existing, so he didn't feel that a special privilege would be created if a variance was to be granted.

Boardmember Tolman stated that she was inclined to grant a variance because the addition is set on a narrowing lot, that it was a pre-existing condition, and felt that granting a variance would not create a privilege that others don't have.

Boardmember Gunderson stated that felt that all 4 parts of the variance test had been met, and would support an approval.

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Boardmember Jones asked for clarification on how strict application of the Zoning Ordinance would deprive the property owner privileges enjoyed by other property owners in the same classification and zoning district.

Boardmember Swanson stated that he was initially stuck on this as well, but he was informed that there are other homes in the neighborhood with setback encroachments, so the homeowner would not be gaining a special privilege. He added that the applicant stated that 2 neighbors would be willing to come forward to support the project.

Boardmember Tolman added that the Case had been noticed through a sign on the property for 2 weeks prior to the Meeting, and that letters were mailed to neighbors within 150' of the property.

**Motion:** A motion to approve case BA17-035 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 regard to the issuance of building permits.*

**Vote:** Passed (5-0)

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

**FINDINGS:**

- A. That special conditions apply to the property, and that the shape of the property was preexisting.
- B. That strict compliance with the Code would deprive the property owner of privileges enjoyed by others in the same zoning district.
- C. That granting a variance does not grant a privilege unavailable to other properties

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**Case No.:** BA17-036 TABLED

**Location:** 648 E. Lehi Road (District 1)

**Subject:** *Requesting a variance to allow a detached accessory structure to encroach into the required rear and side yards in the northwest portion of the property in the RS-43 District. (PLN2017-00338)*

**Decision:** Tabled

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

**Motion:** A motion to table case BA17-036 was made by Boardmember Tolman and seconded by Boardmember Tolman.

**Vote:** Passed (5-0)

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**Case No.:** BA17-037 APPROVED WITH CONDITIONS

**Location:** 1864 E. Baseline Road (District 3)

**Subject:** *Requesting a Special Use Permit (SUP) for modification of a Comprehensive Sign Plan in the LC District. (PLN2017-00339)*

**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 BA17-037 with the acceptance of Findings of Fact and Conditions of Approval as read was made by Boardmember Swanson and seconded by Boardmember Tolman to approve with the following conditions:

1. *Compliance with the sign plan submitted, except as modified by the conditions listed below.*
2. *The electronic message sign shall comply with all illumination intensity levels listed in Section 11-41-8-D-18c.*
3. *The electronic message display shall change a maximum of once per 30 seconds.*
4. *Compliance with all requirements of the Development Services with regard to the issuance of sign permits.*

**Vote:** Passed (5-0)

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

**FINDINGS:**

**Findings for the SUP for the Comprehensive Sign Plan:**

- A. The current Comprehensive Sign Plan allows for a maximum of 12' in height and 65 square-feet in sign area for "Center Identification" detached signs. The applicant's request for 12' in height and 80 square-feet in sign area "Center Identification" detached signs increases the aggregate sign area allowed by the CSP but is less than the aggregate sign area allowed by code.
- B. The proposed "Center Identification" detached signs do not exceed the maximum 80 square-foot sign area or 12-feet maximum allowed height allowed by code.
- C. The proposed signs meet the intent of the original Comprehensive Sign Plan (BA89-121).
- D. Transferring one "Major and Pad Tenant Identification" monument sign from one location to another along the Baseline Road frontage does not increase the number of detached signs, the aggregate height or aggregate area of the detached signs of the Baseline Road frontage.
- E. The proposed revised detached sign designs are compatible with the design of the existing detached signs for this group commercial center, and represent "an equal to or higher quality of design" when compared to the existing signs.



**Findings for the SUP for Frequency of the Electronic Message Change**

- A. The speed limit is 45 mph for this portion of Baseline Road.
- B. There is minimal sign clutter in this area so a message frequency of once every 30 seconds would not be detrimental or cause a distraction. It represents one message per quarter mile for vehicles traveling past it at 45-miles per hour.

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**Case No.:** BA17-038 APPROVED WITH CONDITIONS

**Location:** 4200 Block of S. Power Road (east side)

**Subject:** *Requesting a Special Use Permit (SUP) to allow for a carwash in the LC-AF-PAD District. (PLN2017-00341)*

**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 BA17-038 with the acceptance of Findings of Fact and Conditions of Approval as read was made by Boardmember Swanson and seconded by Boardmember Tolman to approve with the following conditions:

1. *Compliance with the site plan, narrative and landscape plan submitted, except as modified by the conditions below;*
2. *Compliance with all requirements and conditions of approval for zoning case Z16-059;*
3. *Compliance with all requirements and conditions of approval for Design Review case DR17-003;*
4. *Compliance with Zoning Ordinance including standards for specific uses and activities, Sec 11-31-7: Automobile/Vehicle Washing.*

**Vote:** Passed (5-0)

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

**FINDINGS:**

- A. The proposed carwash is allowed in the Limited Commercial (LC) zoning district with the approval of a Special Use Permit.
- B. The proposed car wash is compatible with adjacent developments, and can be complimentary to existing surrounding uses.
- C. Adequate public services, public facilities and public infrastructure are available to serve the proposed project.
- D. The proposed expansion of the commercial/industrial center to include carwash, with the recommended conditions of approval, will not be injurious or detrimental to the adjacent or surrounding properties in the area.
- F. The vacuum system is in a separate enclosure and meets the sound attenuation design requirements for less than 55 decibels of sound reading level at the property line.
- G. The project site exceeds the minimum 10% landscape design standard required for car washes.

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**Case No.:** BA17-039 APPROVED WITH CONDITIONS

**Location:** 630 S. Saguaro Way (District 5)

**Subject:** *Requesting a minor modification of an existing Planned Area Development, after the initial construction, to allow the expansion of an existing structure in the RM-2-AS-PAD District. (PLN2017-00355)*

**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 BA17-039 with the acceptance of Findings of Fact and Conditions of Approval as read was made by Boardmember Swanson and seconded by Boardmember Tolman 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 regard to the issuance of building permits.*
3. *The garage shall be architecturally compatible with the home.*

**Vote:** Passed (5-0)

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

**FINDINGS:**

- A. The condominium was constructed in the mid-1980s with a single car garage that does not meet current interior dimensions for a garage.
- B. The minor extension of 5.6 feet to the width of the existing garage structure to make it 20' wide will bring the width of the garage closer to conformance of the MZO for garage size.
- C. The exterior elevation of the proposed garage will have the same appearance as a typical 2 car garage.
- D. The expanded garage to create a typical two car garage is consistent with the present standards and will be consistent with the purpose and intent of the adopted plan for Fountain of the Sun.

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OTHER BUSINESS:

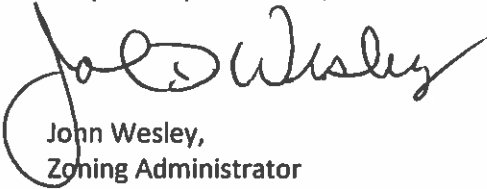
The Board heard a presentation by Staffmember Veronica Gonzalez on the City's digital community engagement program, Imagine Mesa

None

ITEMS FROM CITIZENS PRESENT

None

Respectfully submitted,

A handwritten signature in black ink, appearing to read "John Wesley". The signature is fluid and cursive, with a large initial "J" and "W".

John Wesley,  
Zoning Administrator