

**City Council Chambers – Lower Level  
57 East 1st Street Mesa, AZ 85201  
Study Session 5:00 p.m. and Public Hearing 5:30 p.m.  
Wednesday, February 05, 2020**

Boardmembers Present:

Chair Chris Jones  
Vice Chair Kathy Tolman  
Boardmember Adam Gunderson  
Boardmember Ken Rembold  
Boardmember Nicole Lynam  
Boardmember Steven Curran  
Boardmember Wade Swanson

Staff members Present:

Nana Appiah, Planning Director  
Rachel Prelog, Senior Planner  
Lisa Davis, Planner II  
Heather Omta, Planning Assistant  
Margaret Robertson, City Attorney

Boardmembers Absent:

Other City members Present:

The study session began at 5:00 p.m. and concluded at 5:34 p.m. The Public Hearing began at 5:36 p.m., before adjournment at 5:50 p.m., the following items were considered and recorded.

**Board of Adjustment Study Session**

**1. Call meeting to order.**

Study Session began at 5:00 p.m.

**2. Staff Report.**

Senior Planner, Rachel Prelog, stated

- a) Tentative 2020 Planning Projects
  - i. Process improvement for subdivision and site plan review.
  - ii. General Plan Amendments and comprehensive review.
  - iii. Group Home for Handicapped (GHH) regulation and process reconsiderations.
- b) Update on BOA19-00929: Homeowner was able to work with neighbor to acquire enough land to meet the setback requirement without a variance.

**3. Review and discuss items listed on the Public Hearing agenda for February 4, 2020.**

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

- Planner Cassidy Welch presented on consent case BOA19-00798
- Planner Wahid Alam presented on consent case BOA19-00846
- Planner Ryan McCann presented off consent case BOA19-00920

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- Boardmember Swanson asked for clarification on the 2011 Building Permit. Plans showed a 5-foot setback to the subject carport.
  - Ryan McCann stated that staff was unable to confirm from what point the indicated setback was measured from. Staff is unsure if the setback was being showed to the roof overhang or the posts of the carport.
- Boardmember Swanson asked if the current addition permit will be held up by the variance request.
  - Lisa Davis confirmed the permit has been issued however final inspection is contingent on the variance outcome.

### 4. **Adjournment.**

Without objection, the Study Session was adjourned at 5:34 p.m.

### **Board of Adjustment Public Hearing**

#### 1. **Call meeting to order.**

Public Hearing began at 5:36 p.m.

#### 2. **Take action on all consent agenda items.**

### **Items on the Consent Agenda**

#### 3. **Approval of the January 15, 2020 minutes.**

A motion to approve the previous meeting's minutes was made by Boardmember Swanson and seconded by Boardmember Rembold.

**Vote: 7-0**

Upon tabulation of vote, it showed:

AYES – Jones, Tolman-Rembold-Swanson-Curran-Gunderson-Lynam

NAYS – None

ABSENT – None

#### 4. **Take action on the following cases:**

A motion to approve the following cases on the consent agenda as read by Vice Chair Tolman was made by Boardmember Swanson and seconded by Boardmember Rembold.

**Vote: 7-0**

Upon tabulation of vote, it showed:

AYES – Jones, Tolman-Rembold-Swanson-Curran-Gunderson-Lynam

NAYS – None

ABSENT – None

- \*4-a Case No.: BOA19-00798 (Approval with Conditions)**
- Location:** Within the 1300 and 1400 blocks of West Southern Avenue (south side) and within the 1200 block of South Longmore (east side).
- Subject:** Requesting a Substantial Conformance Improvement Permit (SCIP) to allow modifications to certain development standards for redevelopment of an existing group commercial center.
- Decision:** Approval with Conditions.
- Summary:** This item was on the consent agenda and not discussed on an individual basis.

A motion to approve case BOA00-00798 was made by Boardmember Swanson as read by Vice Chair Tolman with the acceptance of Findings of Fact and Conditions of Approval, and seconded by Boardmember Rembold to approve the following conditions:

1. Compliance with the final site plan as submitted.
2. Compliance with all City development codes and regulations, except as identified in Table 1 of the staff report.
3. Compliance with all requirements of ZON19-00802 for site plan approval.
4. Compliance with all requirements of the Development Services Department regarding the issuance of building permits.

**Vote: 7-0**

Upon tabulation of vote, it showed:

AYES – Jones, Tolman-Rembold-Swanson-Curran-Gunderson-Lynam

NAYS – None

ABSENT – None

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

- A. The existing buildings and subject site were originally constructed in the 1980s for office/ retail uses, does not meet current MZO development standards and is therefore legal non-conforming.
- B. Full compliance with current MZO would require significant alterations to the site and removal of portions of existing buildings.
- C. Improvements to the site include additional perimeter landscaping and parking lot screening, parking lot islands, and foundation base landscaping.
- D. The modifications requested along with the proposed improvements and conditions of approval are consistent with the degree of change requested to improve the site and to bring the site into a closer degree of conformance with current MZO standards.
- E. The proposed improvements will result in a development that is compatible with, and not detrimental to, adjacent properties or neighborhoods.

- \*4-b Case No.: BOA19-00846 (Approval with Conditions)**  
Location: 1656 and 1660 South Alma School Road  
Subject: Requesting a Special Use Permit (SUP) to allow for modifications to an existing Comprehensive Sign Plan (CSP) for a group commercial center.  
Decision: Approval with Conditions.  
Summary: This item was on the consent agenda and not discussed on an individual basis.

A motion to approve case BOA00-00846 was made by Boardmember Swanson as read by Vice Chair Tolman with the acceptance of Findings of Fact and Conditions of Approval, and seconded by Boardmember Rembold to approve the following conditions:

1. Compliance with the applicant’s sign plan documents submitted.
2. Compliance with all requirements of the Development Services Department in the issuance of sign permits.
3. Separate sign permit is required for installation of signs with building permit process.

**Vote: 7-0**

Upon tabulation of vote, it showed:

AYES – Jones, Tolman-Rembold-Swanson-Curran-Gunderson-Lynam

NAYS – None

ABSENT – None

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

- A. The site was developed in the early 1980s and is located within the LC-PAD zoning district.
- B. There is only one detached sign along Alma School Road.
- C. The development site contains unique or unusual physical conditions including the unique L-shaped parcel, and site location with close proximity to US 60 off ramp and the curvature of Alma School Road which limits the visibility of the existing shopping center.
- D. The site location has only 350 feet of frontage along Alma School Road, of which only 120 feet available to install any monument sign.
- E. The existing two-story shopping center has approximately 650 linear feet of store front and is setback 500 feet from Alma School Road.
- F. The CSP modification to allow the 14-foot high and 120 square foot detached sign along Alma School Road is consistent with detached signs of the surrounding commercial centers in the area.
- G. The CSP will advance the goals and objectives of the General Plan. The sign area allowances are consistent with the location, size, design and operating characteristics of the property and will not be injurious or detrimental to the surrounding properties.

**Items not on the Consent Agenda**

**5. Take action on the following cases:**

**5-a Case No.: BOA19-00920 (Denied)**

**Location:** 2922 East Jerome Avenue

**Subject:** Requesting a variance from the required side yard setback to allow for an addition to an existing single residence in an RS-9 district.

**Decision:** Denied

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

A motion to deny case BOA19-00920 was made by Boardmember Swanson and seconded by Boardmember Gunderson for the requested variance from the required side yard setback.

**Vote:** 7-0

Upon tabulation of vote, it showed:

AYES – Jones, Tolman-Rembold-Swanson-Curran-Gunderson-Lynam

NAYS – None

ABSENT – None

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

- A. The house was built in the 1980s.
- B. The lot does not have special circumstances related to its size, shape, topography, location or surroundings. It is a rectangular, 10,531 square foot lot and is 1,531 square feet larger than the minimum lot area for a RS-9 lot.
- C. The need for the variance is created by an unpermitted carport addition which provided only a 22-inch side yard setback adjacent to the west property line.
- D. Section 11-5-7(A) of the MZO does not allow for an overhang of a structure to be closer than two (2) feet from any interior property line. The unpermitted carport’s overhang is eight (8) inches from the west property line.
- E. Since it is possible to renovate and enlarge the existing single residence and meet the MZO development standards for the RS-9 district, the applicant has not provided sufficient justification related to the land, which would justify the requested variance.
- F. The granting of this variance request constitutes a special privilege inconsistent with MZO development standards for the RS-9 district applicable to other properties in the surrounding neighborhood.

**Hearing Discussion:**

- Homeowner, Kendra Schultz, 2922 E Jerome Ave.
  - Stated she and her husband purchased the home in 9/2019. It was unknown to the homeowner that the carport was built without a permit by the previous owner.

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- Stated she obtained signatures from immediate neighbors and there was no objection to the variance request or the carport location.
- Stated that if the carport were on the east side, it would limit RV access to a large shop in the rear of the property.
- Stated there are several homes in the area with similar carports close to their fence/property line.
- Offered to fire rate the existing carport if the Board felt it imposed a fire hazard.
- Chair Jones
  - Stated the Board has an obligation to uphold the process in ensuring the variance criterion have been met.
  - Stated that he didn't feel this case met all four criteria to approve the case.
- Boardmember Rembold
  - Expressed concern about approving the non-conformance and setting a misleading precedence for the variance criteria and process.
- Boardmember Swanson
  - Reminded the Board that the variance decision could impact how future cases are handled and the decision will be used as an example for future variances in the neighborhood.
  - Knows the decision of denial feels unfair when others in the neighborhood have non-conforming structures, however, agreed the criteria for a variance was not met and would not support the approval based on information presented.
- Boardmember Curran
  - Stated he understood Boardmember Rembold's point of view; however, there are several non-conforming structures in the neighborhood.
- Boardmember Lynam
  - Asked for the width of carport.
    - Kendra Schultz replied that she couldn't recall but that the measurements were on the County Assessors' website.
  - Does not feel like the request meets the full variance criteria.

**6. Items from citizens present.**

**7. Adjournment.**

Without objection, the public hearing was adjourned at 5:50 p.m.

Respectfully submitted,



Rachel Prelog,

On behalf of Zoning Administrator (Dr. Nana Appiah)