

Board of Adjustment

Minutes

City Council Chambers

May 2, 2018

Boardmembers Present:

Ken Rembold, Vice Chair
Wade Swanson
Steve Curran
Kathy Tolman
Adam Gunderson

Board Members Absent:

Trent Montague, Chair
Chris Jones

Staff Present:

John Wesley
Kim Steadman
Charlotte Bridges
Veronica Gonzalez
Wahid Alam
Charlotte McDermott
Mike Gildenstern

Others Present:

Ernesto Taylor
Neal Eggen
Aaron Williams
Wendy Jones
David Ramirez
Eric Zitny
Thein Htay
Lawrence Karasz
(others present)

The study session began at 4:30 p.m. and concluded at 5:00 p.m. The Public Hearing began at 5:30 p.m., before adjournment at 6:17 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

None.

3. Review and discuss items listed on the Public Hearing agenda for May 2, 2018.

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

4. Adjournment

Study Session adjourned at 5:00 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 Minutes from the April 4, 2018 Meeting

***2-a** A motion to approve the minutes of the April 4, 2018 Meeting Minutes, was made by Boardmember Swanson and seconded by Boardmember Gunderson.

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

3. Take action on the following cases:

A motion to approve the cases on the consent agenda was made by Boardmember Swanson and seconded by Boardmember Tolman.

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

***3-a Case No.: BOA18-00041 APPROVED WITH CONDITIONS**

Location: 833 West Broadway Road (District 4)

Subject: *Requesting a Substantial Conformance Improvement Permit (SCIP) for deviations to standards for automobile/vehicle sales and leasing in the LI 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 BOA18-00041 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 Tolman to approve with the following conditions:

1. Compliance with the site plan and landscape plan submitted, except as modified by the conditions below.
2. Compliance with all requirements of the Development Services Department in the issuance of building permits.
3. Provide a minimum of 6 trees in the front landscape area adjacent to Broadway Road. Trees sizes shall comply with MZO 11-33-3.A.6 requirements.
4. Provide an 8' tall masonry screening wall along the north side of the outdoor storage area.
5. Provide a minimum of 8 trees in the rear landscape area adjacent to the south property line. Trees sizes shall comply with MZO 11-33-3.B.2 requirements.
6. Provide a pedestrian connection from the building to the public right-of-way, include an alternative paving material for the crosswalk such as stamped or decorative concrete, pavers or similar finish (striping on asphalt is not acceptable).

Vote: Passed: 5-0 (Absent: Chair Montague, Boardmember Jones)

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

FINDINGS:

- A. This request for a SCIP would allow for the redevelopment a towing/impound yard to an automobile/vehicle sales facility.
- B. Changing the occupancy of the existing building from a residential use to an office use invokes conformance to current development standards.
- C. Proposing a new use which has specific development standards (auto sales) invokes conformance to current development standards.
- D. The deviations requested and the proposed improvements 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 greater degree of conformance with current standards.
- E. The proposed improvements will result in a development that is compatible with, and not detrimental to, adjacent properties or neighborhoods.
- F. Full compliance with current code would require removal or relocation of existing improvements.

- G. 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.
- H. The proposed new improvements with the recommended conditions of approval help bring the site into a closer degree of conformance with current standards.

***3-b Case No.: BOA18-00187 APPROVED WITH CONDITIONS**

Location: The 1800 block of West Main Street (District 3)

Subject: *Requesting a Special Use Permit (SUP) for a Comprehensive Sign Plan (CSP) in the LI 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 BOA18-00187 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 Tolman to approve with the following conditions:

1. Compliance with the sign plan submitted, except as modified by the condition listed below.
2. Compliance with all requirements of the Development Services Division in the issuance of sign permits.

Vote: Passed: 5-0 (Absent: Chair Montague, Boardmember Jones)

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

FINDINGS:

- A. The CSP proposes attached signage per Code.
- B. Detached signage along Main Street is proposed to have an aggregate of 27.75' in height and 123 SF in sign area, distributed between 3 detached signs.
- C. The CSP proposes attached signage per Code.
- D. The CSP proposes window signage that is limited to 30% coverage of each window.
- E. The CSP allows existing on-site directional signage that exceeds Code for height and area, providing maps of the development for wayfinding.
- 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.

***3-c** **Case No.: BOA18-00192 APPROVED WITH CONDITIONS**

Location: 1350 South Longmore (District 3)

Subject: *Requesting a Special Use Permit (SUP) to allow the number of special events to exceed the allowed maximum 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 BOA18-00192 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 Tolman to approve with the following conditions:

1. Compliance with the site plan, project narrative and operation plan details except as modified by the conditions below.
2. Compliance with all requirements of the Development Services Department in the issuance of building permits.
3. Apply for and receive a Mesa Special Event License prior to each event.
4. Compliance with all requirements of the Special Event License.
5. The Special Use Permit allows up to six events per calendar year. The events may only be held during the months of April-June.
6. The Special Use Permit shall automatically expire on June 30, 2019 and be of no further force and effect.

Vote: Passed: 5-0 (Absent: Chair Montague, Boardmember Jones)

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

FINDINGS:

- A. The special event will be located on the west side of Korea Mart adjacent to MCC and is intended to support home soccer games for FC Arizona at MCC Stadium.
- B. The special event will be open 6:00-10:00 pm on select days during the FC Arizona soccer season, which runs through June 2018.
- C. The beer garden event is not adjacent to any neighboring residential uses and staff does not anticipate any injury or detriment to surrounding uses.
- D. Sufficient security will be onsite to ensure no minors enter the area and no alcohol leave the premises.
- E. Adequate public services, public facilities and public infrastructure are available to serve the proposed project.

***3-d Case No.: BOA18-00195 APPROVED WITH CONDITIONS**

Location: 2667 West Baseline Road (District 3)

Subject: *Requesting a Special Use Permit (SUP) to allow the number of special events to exceed the allowed maximum in the LC-PAD District.*

Decision: Approved with Conditions

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

Motion: A motion to approve case BOA18-00195 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 Tolman to approve with the following conditions:

1. Compliance with the site plan and operation plan submitted except as modified by the conditions below.
2. Temporary trash receptacles shall be placed throughout the event area and shall be emptied and removed after each event.
3. Compliance with all requirements of the Development Services Division in the issuance of building permits.
4. Apply for and receive a Mesa Special Event License prior to each event.
5. Compliance with all requirements of the Special Event License.
6. The Special Use Permit limits the number and duration of special events as follows:
 1. One Friday per month from 7:00 p.m. – 10:00 p.m.;
 2. One Saturday per month from 7:00 a.m. – 9:30 a.m.; and
 3. The 2nd and 4th Sunday of each month from 10:00 a.m. – 2:00 p.m.
7. The Special Use Permit shall automatically expire on June 30, 2019 and be of no further force and effect.

Vote: Passed: 5-0 (Absent: Chair Montague, Boardmember Jones)

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

FINDINGS:

- A. The special events support the associated retail business, which is an allowed use in the LC-PAD District.
- B. The special events occur monthly on specific days and have a limited duration of two to four hours each.
- C. The special event activities take place in the parking area adjacent to the north of the shopping center building, with overflow parking to the south of the building.
- D. Event staff will be present to direct parking and traffic flow, and to prevent injurious or detrimental effects to adjacent or surround properties, the neighborhood or to the general welfare of the City.
- E. Adequate public services, public facilities and public infrastructure are available to serve the proposed project.

***3-e Case No.: BOA18-00198 APPROVED WITH CONDITIONS**

Location: 112S East Southern Avenue (District 4)

Subject: *Requesting a Substantial Conformance Improvement Permit (SCIP) to allow modifications to development standards in the OC-BIZ 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 BOA18-00198 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 Tolman 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. *Submit a revised site plan for Planning staff review and approval that includes the following:*
 - A. *Covered parking canopies per the requirements in MZO 11-33-4.B.5 and 11-33-4.B.6 .*
 - B. *One 24" box shade tree and three shrubs in every 8'-wide parking lot landscape island per the requirements in MZO 11-33-4.D.*
 - C. *A 24' wide parking lot landscape island located between the two covered parking canopies per the requirements in MZO 11-33-4.D.*
 - D. *Four 24" box shade trees and twelve shrubs in the 24'-wide parking lot landscape island.*
4. *Replace dead and non-thriving plant material.*

Vote: Passed: 5-0 (Absent: Chair Montague, Boardmember Jones)

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

FINDINGS:

- A. The site was developed the late 1980's and mid 1990's.
- B. The location and installation of the new ATM drive-thru facility complies with all development standards of the MZO.
- C. Proposed improvements to the site include the ATM, three new parking lot landscape islands, and four new covered parking structures.
- D. Installation of the new ATM drive-thru facility, new parking lot landscape islands and new covered parking structures reduces the excess number of parking spaces, which brings the site into greater conformance with current development standards.
- E. Full compliance with development standards would require demolition of the existing site improvements.
- F. The modifications 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. The proposed improvements will not create new non-conforming conditions.
- H. The proposed improvements will result in a development that is compatible with and not detrimental to the adjacent properties or neighborhood.

***3-f Case No.: BOA18-00272 APPROVED WITH CONDITIONS**

Location: The 7600 through 7800 blocks of East Ray Road (south side) (District 6)

Subject: *Requesting a Special Use Permit (SUP) to allow structures to exceed the maximum allowed height in the LI-AF 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 BOA18-00272 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 Tolman to approve with the following conditions:

1. Compliance with the site plan, elevations and justification statement submitted except as modified below.
2. Compliance with all requirements of the Development Services Division in the issuance of building permits.
3. Compliance with the conditions of approval of Design Review DRB18-00062.
4. Compliance with all requirements of Zoning case ZON18-0013S.

Vote: Passed: 5-0 (Absent: Chair Montague, Boardmember Jones)

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

FINDINGS:

- A. The proposed development is in conformance with the goals and policies of the Mesa 2040 General Plan for areas with Mixed Use Activity District and Employment District designation. The proposed development meets MZO Section 11-69-5 for site plan review and Section 11-19 with regards to provisions applicable to airfield overflight areas.
- B. The proposed industrial park near the Gateway Airport is consistent with the purposes of the Industrial district where it is located and is in conformance with the Mesa Gateway Strategic Development Plan.
- C. The proposed project will not be injurious or detrimental to adjacent or surrounding properties since it is in an industrial park within an employment area, nor will the proposed project or improvements be injurious or detrimental to the neighborhood or to the general welfare of the City of Mesa.
- D. Adequate public services, public facilities and public infrastructure are available in the surrounding area to serve the proposed development since it fronts arterial street Ray Road.

Items not on the Consent Agenda

4 Take action on the following case:

Item 4-a Case No.: BOA18-00199 1834 South Palmer (District 3)

4-a Case No.: BOA18-00199 CONTINUED TO JUNE 2, 2018.

Location: 1834 South Palmer (District 3)

Subject: *Requesting Variances to allow a carport to 1) encroach into the required sideyard, and 2) encroach into the required rear yard for a detached single residence in the RS-6 District.*

Decision: Continuance to June 2, 2018

Summary: The applicant, Thein Htay 2210 W. Hermosa Drive, Tempe, speaking on behalf of his parents who reside at 1834 South Palmer, presented the case to the Board. He confirmed for the Board that his parents park one of their vehicles in the carport every night for security purposes, and the other in the garage. The applicant explained that due to the length of the vehicle that is parked in the garage, it must be parked diagonally, so there is not enough room for a second vehicle.

Staff member Gonzalez confirmed for Boardmember Curran that without a variance, the original garage structure could not be extended out, as it would be necessary to maintain sufficient driving parking so vehicles do not protrude in to the Right of Way. Staff member Gonzalez added that the sloped concrete corner of the sidewalk on the northwest side of the property was not constructed to be a driveway, but an ADA-Compliant ramp, and confirmed for Boardmember Tolman that the concrete pad on the north side of the front yard is not to be used for parking vehicles.

Staff member Gonzalez confirmed for Boardmember Curran that the garage is currently showing roughly an 18' setback, and to properly accommodate an extended garage with typical 9'X18' parking spaces, a standard minimum 20'x22' garage would be necessary. Staff member Gonzalez finished by saying that to meet that standard, 16' would remain of the driveway, but that's typically not long enough to park a vehicle without overhanging the sidewalk.

Zoning Administrator Wesley added that if the applicant were to try to obtain a permit for the northwestern slab of concrete to be used as a driveway, it would not be permitted.

Boardmember Tolman suggested making a motion to continue the case to the June 6, 2018 Meeting, but Staff member Gonzalez cautioned that one month may not be enough and requested a two-month timeline.

A motion to continue Case BOA18-00199 to the July 11, 2018 Meeting was made by Boardmember Tolman and seconded by Boardmember Gunderson, but failed 2-3 (Ney: Boardmembers Swanson, Rembold, and Curran)

The applicant confirmed for Boardmember Swanson that due to the advanced age of his parents, security cameras and other security measures have not been considered because they are not up to speed with the technology.

A motion to approve the Staff recommendation for denial of Case BOA18-00199 was made by Boardmember Curran, but failed for lack of a second.

Zoning Administrator Wesley confirmed for the Board that an action of some kind is necessary, and suggested possibly making another motion for a continuance.

Staff confirmed for Boardmember Curran that if the applicant was granted a continuance for 2 more months, maybe other options that hadn't been explored could be researched, and dimension details in the drawings would allow more flexibility in the solution.

Staff member Gonzalez confirmed for Boardmember Gunderson that it is a possibility that side automobile access could be secured from Juanita Avenue, but an extended patio addition encroachment would present a challenge with adhering to necessary setbacks.

Boardmember Tolman suggested a continuance to the July 11, 2018 meeting, because the applicant may not have been completely aware of all of the parking and security options.

The applicant confirmed for Boardmember Gunderson that he would like to keep working with Staff to address security and parking issues.

Boardmember Swanson explained that the site plan is showing the original patio at 16'x8', with a 35'x14' addition, and stated that there is no way to approve the carport because it encroaches into a utility easement. He closed by proposing that the rear patio be modified to come into compliance with required setbacks, and be converted to accommodate parking spaces with an entrance from Juanita Avenue.

Boardmember Tolman stated that it is not the position of the Board to discuss solutions and suggested that the applicant come back in July.

Lawrence Karasz, 933 W. Juanita spoke in support of the Staff-recommended denial. Mr. Karasz was concerned about the quality of the construction since it was not permitted or inspected, and the life safety concerns of first responders in the event of an emergency

at the property. Mr. Karasz confirmed for the Board that he was not against granting a continuance for the applicant to explore more options.

The applicant stated that all the proper materials were used, and proper building codes were followed, under the direction of a handyman.

Staff member Gonzalez confirmed for the Board that all of the options may not have been fully explored, and that if the Board votes to deny this variance, it would cost the applicant in time and money to go about submitting another application for a different variance.

A motion to continue Case BOA18-0199 to the July 11, 2018 Meeting was made by Boardmember Tolman, and seconded by Boardmember Gunderson, but failed 3-2 (Ney: Boardmembers Rembold and Swanson)

Boardmember Rembold stated that he didn't believe that a continuance would help, as the applicant would still have to remove the structure in the easement.

Boardmember Gunderson stated that the removal of the structure would be possible with the continuance, and it provide an alternative for the applicant to address security and parking needs, all on the same application.

A motion to approve the Staff recommendation for denial of Case BOA18-00199 was made by Boardmember Rembold, and seconded by Boardmember Swanson, but failed 3-2 (Ney: Boardmembers Tolman and Gunderson)

Zoning Administrator Wesley stated that unless a motion receives four votes to approve the variance, it would be a procedural denial. Mr. Wesley suggested, as an alternative to granting a one-month continuance. Zoning Administrator Wesley closed by saying that it appears that no one is in support of the allowing what is currently there to remain, but the goal would be to come to some type of resolution.

A motion to continue Case BOA18-0199 to the June 6, 2018 Meeting was made by Boardmember Tolman, and seconded by Boardmember Swanson,

Motion: A motion to continue case BOA18-00199 as read was made by Boardmember Swanson and seconded by Boardmember Tolman to continue Case BOA18-00199 to June 6, 2018.

Vote: Passed: 5-0 (Absent: Chair Montague, Boardmember Jones)

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5. Other business

None.

6 Items from citizens present

None.

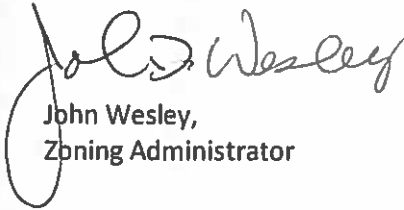
7. Adjournment

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

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

Public Hearing adjourned at 6:17 p.m.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "John Wesley", is written over the typed name and title.

John Wesley,
Zoning Administrator