

## Board of Adjustment

### *Minutes*

City Council Chambers, Lower Level

February 7, 2018

**Boardmembers Present:**

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

**Board Members Absent:**

None

**Staff Present:**

John Wesley  
Kim Steadman  
Charlotte Bridges  
Veronica Gonzalez  
Angelica Guevara  
Charlotte McDermott  
Mike Gildenstern

**Others Present:**

Mike Wandler  
Gerry Wandler  
Mary Ortega  
James Babbos  
Steven Hoho  
John Adams  
(others present)

The study session began at 4:30 p.m. and concluded at 5:36 p.m. The Public Hearing began at 5:42 p.m., before adjournment at 6:00 p.m., the following items were considered and recorded.

**Study Session began at 4:30 p.m.**

**A. Zoning Administrator's Report**

Received a presentation on the updated Sign Code

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

Staff Member Gonzalez presented a Memo to the Board correcting a typographical error in Condition 3.b. in Conditions of Approval found in Case BOA17-00576 re84-004, should be spm84-002

**Study Session adjourned at 5:36 p.m.**

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**Public Hearing began at 5:42 p.m.**

**A. Consent Agenda:**

**Consider Minutes from the February 7, 2018 Meeting**

**A. 1. A motion to approve the minutes of the February 7, 2018 Meeting Minutes, as read by Vice Chair Rembold, was made by Boardmember Swanson and seconded by Boardmember Jones.**

**Vote: 7-0 Approved**

**A. 2. A motion to adjourn was made by Boardmember Tolman and seconded by Boardmember Rembold.**

**Vote: 7-0 Approved**

**Public Hearing adjourned at 6:30 p.m.**

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**Case No.:** BOA17-00525 CONTINUED

**Location:** 505 South Morris (District 4)

**Subject:** *Requesting a Development Incentive Permit (DIP) for a commercial/industrial project in the LI District.*

**Decision:** Continued to March 7, 2018

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

**Motion:** A motion to continue case BOA17-00525 was made by Boardmember Swanson and seconded by Boardmember Curran to March 7, 2018.

**Vote:** Passed: 7-0

**Case No.:** BOA17-00530 APPROVED WITH CONDITIONS

**Location:** 2060 West Broadway Road (District 3)

**Subject:** *Requesting a Special Use Permit (SUP) for a Comprehensive Sign Plan (CSP) to allow an electronic message display to change more often than once per hour in the LI PAD 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 BOA17-00530 with the acceptance of Findings of Fact and Conditions of Approval was made by Boardmember Swanson and seconded by Boardmember Curran to approve with the following conditions:

1. Compliance with the site plan, sign details and project narrative 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. Each message on the electronic display message sign shall remain static for a minimum of eight (8) seconds.
4. The transitions between messages and the light intensity level of the electronic message display shall comply with the requirements of Section 11-41-8.D.17.
5. The electronic message displays shall not be illuminated between 11:00 p.m. and sunrise.

**Vote:** Passed: 7-0

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

**FINDINGS:**

- A. The proposed electronic message display is approximately 54' from the west property line, and 200' from the east property line. The property located at the northwest corner of Gilbert Road and Southern Avenue is no longer included in the surrounding group commercial center due to it being under a different ownership.
- B. The speed limit of Broadway Road is 45 mph in this location.
- C. Electronic message displays are to remain static for a minimum of one hour unless a Special Use Permit (SUP) is granted. In this case, the recommended minimum 8-second message display change rate is the standard minimum display period for an electronic message display proposed by the update to the Mesa Sign Ordinance.
- D. The minimum 8-second message display change rate reflects Arizona Department of Transportation standards.
- E. With a 45-mph speed limit, a vehicle traveling at that speed would travel 528-ft in 8 seconds. Over a quarter mile, there would be no more than three messages over a 1320-ft (or one quarter-mile) distance.
- F. The electronic message displays are located within 150' of a residential use.

**Case No.:** BOA17-00541 APPROVED WITH CONDITIONS

**Location:** 1235 North Sunnyvale Unit 31 (District 5)

**Subject:** *Requesting a Variance to allow an encroachment for a garage addition into the required side yard setback for an attached single residence in the RM-2-PAD 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 BOA17-00541 with the acceptance of Findings of Fact and Conditions of Approval was made by Boardmember Swanson and seconded by Boardmember Curran to approve with the following conditions:

1. Compliance with the site plan, elevations and narrative as submitted except as modified by the condition below.
2. Compliance with all requirements of the Development Services Department in the issuance of a building permit.

**Vote:** Passed: 7-0

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

**FINDINGS:**

- A. The subject site is located within a subdivision known as Alta Mesa Parcel 3 that was recorded in 1984. As platted, the lot is configured in such a way that the front of the lot is about 1/3 of the width of the rear of the lot creating a pie shaped lot. The unusual lot configuration is a unique constraint that was not created by the property owner. If the lot had a more conventional shape that did not taper toward the lot frontage, a variance request would not be necessary.
- B. This subdivision was built with an attached housing product designed with 0' side setbacks and homes laid out in blocks of 4-9 units. At the end of a block of units, either a 7' side setback or an open space tract has been provided as a means of separation and to break up the streetscape. The proposed garage additions will maintain a 3.24' setback from the property line allowing a separation between units to be maintained.
- C. The approval of the requested variance will not grant special privilege to this property owner as similar properties with side yards in this development have garage additions.

**Case No.:** BOA17-00559 DENIED

**Location:** 2340 East Hermosa Vista Drive (District 1)

**Subject:** *Requesting Variances to allow two detached accessory structures: 1) to be placed in front of the front line of the primary dwelling; 2) to be placed in the required front yard setback; and 3) to exceed the maximum allowed height in the required front yard setback; and requesting a Variance to allow a fence to exceed the maximum allowed height in the required front yard setback, in the RS-15 District.*

**Decision:** Denied

**Summary:** The applicant, Mike Wandler, 2340 E. Hermosa Vista Drive presented the case to the Board.

Mr. Wandler confirmed for Boardmember Swanson that the wall is mainly for security purposes.

Mary Ortega, 2538 E. Lynwood, spoke in favor of granting the variances to allow the wall and gatehouses to remain in the current configuration.

James Babbos, 2049 E. Norwood Street, spoke in opposition to the project, and confirmed for the Board that even if the wall was to be reduced to a 6' height, he would still be opposed to it, based on how it is positioned in the required front setback.

Steve Hohol, 2317 E. Hermosa Vista, spoke in opposition to the project.

John Adams, 2433 N. Alamo, spoke in opposition to the project.

Gerry Wandler, 2340 E. Hermosa Vista Drive, apologized for being ignorant of the Code, and explained that they just wanted to be good stewards to the land and give back to the community. She closed by explaining that one of the "guardhouse" structures is to be used for tool storage.

Boardmember Curran confirmed with the applicant that the wall would have to be moved a few feet behind the required front setback as to not damage the existing trees on the property.

Boadmember Gunderson felt that special circumstances in size and topography apply to the lot, and these special circumstances were not created by the applicant. He went on to say that similar walls are enjoyed by other properties in the area, but there are not similar guardhouses, making justification more challenging. Boardmember Gunderson closed by proposing to allow the applicant to work with City Staff for another month.

Boardmember Swanson felt that granting the applicant another month would not be helpful, and that he didn't see a basis for granting a variance, as the applicant could have placed everything behind the 22' setback.

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Boardmember Tolman explained that it was a hard decision, but that she couldn't find reasons to grant a variance, as the hardships were created by the applicant.

Boardmember Curran explained that he couldn't justify granting a variance.

Boardmember Gunderson explained that the existing wall is located behind a row of trees, as proper placement behind the required setback would be as well, so he didn't see a significant difference in the two scenarios.

Boardmember Swanson explained that if the applicant were to build behind the required setback, he wouldn't need to come to the Board to be granted a variance, but decision at hand involves the wall being placed in the required front setback. He concluded by saying that he didn't see a basis to grant a variance in this situation.

Boardmember Jones felt that the property is different, and that security is a valid concern, but wouldn't be able to support granting a variance.

**Motion:** A motion to deny case BOA17-00559 with the acceptance of Findings of Fact was made by Boardmember Swanson and seconded by Boardmember Rembold.

**Vote:** Denied: 5-2 (Nay, Boardmembers Jones and Gunderson)

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

**VARIANCE #1 FINDINGS:**

- A. The house was built in 1989. The lot was later subdivided in 1997 to create the RS-15 lots to the north. This lot became Tract "A" of that subdivision.
- B. The lot is zoned RS-15. Adjacent zoning is RS-15 with some SR-9 zoning in the neighborhood.
- C. The ±1.8-acre lot is oversized compared to RS-15 standards, which require minimum lot area of ±0.34 acres.
- D. The lot fronts on Hermosa Vista Drive, between Alamo and 24th Street. It is the only lot on the north side of this block with a house fronting Hermosa Vista. To the east is an open tract (Tract "B" in the same subdivision).
- E. To the west of the subject property is a 6'-tall perimeter wall along the Hermosa Vista Drive property line. This is the side of a property that faces onto N. Alamo.
- F. The existing lot size and orange grove do not impede compliance with the Mesa Zoning Ordinance.
- G. The size of the lot provides ample opportunity to locate the proposed DABs to the side or rear of the principal dwelling, as required by Code.
- H. Per MZO11-30-17.B.5, Detached Accessory Buildings "Shall not be located...in the area between the front of the principal dwelling and the front property line."

**VARIANCE #2 FINDINGS:**

- A. The house was built in 1989. The lot was later subdivided in 1997 to create the RS-15 lots to the north. This lot became Tract "A" of that subdivision.
- B. The lot is zoned RS-15. Adjacent zoning is RS-15 with some SR-9 zoning in the neighborhood.
- C. The ±1.8-acre lot is oversized compared to RS-15 standards, which require minimum lot area of ±0.34

acres.

- D. The lot fronts on Hermosa Vista Drive, between Alamo and 24th Street. It is the only lot on the north side of this block with a house fronting Hermosa Vista. To the east is an open tract (Tract "B" in the same subdivision).
- E. To the west of the subject property is a 6'-tall perimeter wall along the Hermosa Vista Drive property line. This is the side of a property that faces onto N. Alamo.
- F. The existing lot size and orange grove do not impede compliance with the Mesa Zoning Ordinance.
- G. The size of the lot provides ample opportunity to build outside of the required front yard setback
- H. Per MZO11-30-17.B.5, Detached Accessory Buildings "Shall not be located in the required front yard..."

**VARIANCE #3 FINDINGS:**

- A. The house was built in 1989. The lot was later subdivided in 1997 to create the RS-15 lots to the north. This lot became Tract "A" of that subdivision.
- B. The lot is zoned RS-15. Adjacent zoning is RS-15 with some SR-9 zoning in the neighborhood.
- C. The ±1.8-acre lot is oversized compared to RS-15 standards, which require minimum lot area of ±0.34 acres.
- D. The lot fronts on Hermosa Vista Drive, between Alamo and 24th Street. It is the only lot on the north side of this block with a house fronting Hermosa Vista. To the east is an open tract (Tract "B" in the same subdivision).
- E. To the west of the subject property is a 6'-tall perimeter wall along the Hermosa Vista Drive property line. This is the side of a property that faces onto N. Alamo.
- F. The existing lot size and orange grove do not impede compliance with the Mesa Zoning Ordinance.
- G. A 3'-6"-tall wall is the only structure permitted in the required front yard setback.
- H. There is no justification to exceed height in the required front yard setback.

**VARIANCE #4 FINDINGS:**

- A. The house was built in 1989. The lot was later subdivided in 1997 to create the RS-15 lots to the north. This lot became Tract "A" of that subdivision.
- B. The lot is zoned RS-15. Adjacent zoning is RS-15 with some SR-9 zoning in the neighborhood.
- C. The ±1.8-acre lot is oversized compared to RS-15 standards, which require minimum lot area of ±0.34 acres.
- D. The lot fronts on Hermosa Vista Drive, between Alamo and 24th Street. It is the only lot on the north side of this block with a house fronting Hermosa Vista. To the east is an open tract (Tract "B" in the same subdivision).
- E. To the west of the subject property is a 6'-tall perimeter wall along the Hermosa Vista Drive property line. This is the side of a property that faces onto N. Alamo.
- F. The existing lot size and orange grove do not impede compliance with the Mesa Zoning Ordinance.
- G. A 3'-6"-tall wall is the only structure permitted in the required front yard setback.
- H. There is no special circumstances on this property to justify exceeding height in the required front yard setback.
- I. This site has ample space behind the required front yard setback to build a wall of a height that would secure the site.

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- J. Walls behind the required front yard setback (within the buildable area of the lot) are subject to the standard 30' height limit placed on structures in residential zoning districts.**

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**Case No.:** BOA17-00562 WITHDRAWN

**Location:** 1600 to 1900 blocks of South Val Vista Drive (west side) and 3400 to 3500 blocks of East Baseline Road (north side) (District 2)

**Subject:** *Requesting a Special Use Permit (SUP) to allow modification of a Comprehensive Sign Plan (CSP) in the LC-PAD-CUP-BIZ District.*

**Decision:** Withdrawn

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

**Motion:** A motion to withdraw case BOA17-00562 was made by Boardmember Swanson and seconded by Boardmember Curran.

**Vote:** Passed: 7-0

**Case No.:** BOA17-00576 APPROVED WITH CONDITIONS

**Location:** 1920 South Alma School Road (District 3)

**Subject:** *Requesting: 1) a Special Use Permit (SUP) to allow a car wash in the LC-PAD District; and 2) a Substantial Conformance Improvement Permit (SCIP) to allow deviations from development standards for the modification of a car wash in the LC-PAD 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 BOA17-00576 with the acceptance of Findings of Fact and Conditions of Approval was made by Boardmember Swanson and seconded by Boardmember Curran to approve with the following conditions:

1. Compliance with the project narrative, 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. Submit a revised landscape plan for review and acceptance by the Planning Director, adding
  - a. Landscaping to properly screen the new trash enclosure location along Javelina Avenue;
  - b. Landscaping to replace any missing or non-thriving plants in compliance with SPM84-002.
4. Approval and compliance with the associated Administrative Review for Site Plan Modification through case ADM18-00028.

**Vote:** Passed: 7-0

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

**FINDINGS FOR SUP:**

- A. The car wash has been in existence since the mid-1980's.
- B. The proposed modifications of the car wash, with the recommended conditions of approval, will not be injurious or detrimental to the adjacent or surrounding properties.
- C. The property is being brought into closer compliance with code through the accompanying SCIP request.
- D. The project site exceeds the minimum 10% landscape area requirement for car washes.
- E. A plan of operation and "good neighbor policy" has been submitted.
- F. The proposed project is consistent with the General Plan.

OTHER BUSINESS:

None

ITEMS FROM CITIZENS PRESENT

None

Respectfully submitted,

  
John Wesley,  
Zoning Administrator

