

Meeting Minutes

City of Prescott Board of Adjustment Public Hearing Thursday, March 16, 2006 – 9:00 AM

MEMBERS PRESENT:

E. Calvin Fuchs, Chairman
Director
Mike Klein, Vice-Chairman
Johnnie Forquer
Tom Kayn
Ken Mabarak
Bill Warren

MEMBERS ABSENT:

Duane Famas

OTHERS PRESENT:

George Worley, Assistant Community Development
Director
Ryan Smith, Community Planner
Mike Bacon, Community Planner
Steve Gaber, Grants Administrator
John Moffitt, City Attorney
Gary Kidd, City Attorney
Ted Galde, Fire Marshall
Linda Hartmann, Adm. Assistant Community Development
Kathy Dudek, Recording Secretary
Jim Lamerson, Council Liaison
Bob Luzius, Councilman

I. CALL TO ORDER

E. Calvin Fuchs, Chairman, called the hearing to order at 9:00 AM.

II. ATTENDANCE

The proceedings of this hearing were recorded and a tape is available in the Planning and Zoning Division for playback. A list of members of the public in attendance is also on file in the Community Development Department.

Chairman Fuchs advised that with six members present, four affirmative votes would be required to approve any request.

III. REGULAR AGENDA

1. **Approve the minutes** of the 02/16/06 hearing.

Mr. Warren, **MOTION: to approve the minutes** of the February 16, 2006 hearing. Mr. Mabarak, 2nd. **Vote: 6-0.**

2. **CUP06-001, 3078 Pedregal.** APN: 106-25-138 and totaling ± 0.72 acre. Zoning is Single-Family 35 (SF-35). Request a conditional use permit for a detached guesthouse (*LDC* Section 2.5.6). Owners are Geoff & Dawn LaGary. Applicant/Agent is Carter Builders, Inc. Community Planner is Mike Bacon.

Mr. Bacon reviewed the staff report and indicated that the request for the detached guesthouse includes a 12'6" structural height and a total of 352 square feet (SF). There will be no kitchen. One adjacent neighbor expressed his concerns with privacy and diminished views.

Board members queried and commented on:

- kitchens being permitted;
- the 352 SF building size, where 240 SF is shown on the plans;
- the opposition's having no legal right as to the view being maintained;
- the contractor's suggesting to his clients to change the footprint to help the neighbors preserve their present view and privacy;
- why grading is going on for the guesthouse prior to obtaining the conditional use permit;
- if the owner's would be receptive to locating and "flipping" the structure so that the guesthouse door does not face the neighbors' property; and,
- that the Board has cited other builders for their lack of respect in regard to the Board's authority when the builder has started work prior to the approval of a project.

Mr. Bacon further noted that the Board has the purview to address and include any conditions necessary, and that the guesthouse could be located further to the north.

Mr. Don Carter, Carter Builders, [no signature on file], indicated the building permit for the house has been issued and that the "brushing" of the lot has been done. He indicated the brushing was necessary; and, if the Board wouldn't approve the guesthouse, the area would be landscaped. The elevation calls for a 100" – 102" finished floor elevation for the casita. The structure can be rotated so that it faces away from the neighbor and will have a lesser impact.

Mr. Len Baham, 3072 Pedregal Drive, neighbor adjacent to the proposed project indicated that the project impacts the views as well as eliminates the privacy he enjoys with his spa/hot tub.

Mr. Warren: **MOTION: to approve Conditional Use Permit, CUP06-001**, subject to the following Conditions: 1) The proposed guesthouse is built in substantial conformance to the site plan and elevations dated March 16, 2006; 2) That the structure be rotated and the front door of the guesthouse is to face away from the neighbors' house; and, 3) That the floorplan be "flipped" so as to eliminate windows on the neighbors' side. Mr. Kayn, 2nd. **Vote: 6-0.**

3. **V06-001, 215 W. Leroux Street.** APN: 109-14-022 and totaling ± 0.378 acre. Zoning is Business Regional (BR). Request a variance for a parking reduction waiver (*LDC* Section 6.2); request a zero setback allowance on the south side for a 12-unit studio apartment (*LDC* Section 4.8). Owner is Project Aware, Inc. Applicant is Alfred E. Falk. Community Planner is Ryan Smith. (*Continued from 02-16-06*).

Mr. Smith reviewed the staff report and stated that the applicant wishes to reduce the rear yard setback and is withdrawing the parking request portion of the application. A letter requesting a parking reduction may follow at a later time. There is an easement through the property and Fire Marshall Galde has no issue as long as there is an adequate firewall. The sewer line and easement cannot be moved.

Board members queried and commented on:

- the reason why the parking reduction was taken off the table;
- the sewer easement impacting the size of the building envelope;
- the letter presented today that is in opposition to the project;

Mr. Smith noted and reviewed:

- information provided to staff indicates that this project is not a traditional living complex, it is more a supervised living arrangement;
- the Unified Development Code Committee (UDC) will be asked to examine the parking requirements for this type of project in relation to the Committee's recommendation for *LDC* amendments; and
- the Board is being asked to vote on the setback reduction, not on the parking issue.

Fire Marshall Galde indicated:

- there are a number of structures that have been built with a zero setback from the property line with adequate firewall approval from the Fire Department;
- the Code requires a street or alley access for firefighting purposes, and there is access from three sides; and,
- the Fire Department is looking at this project as a business rather than a housing project; therefore, fire sprinklers will be required.

Mr. Alfred Falk, 1911 Atlantic Avenue, Project Aware, indicated:

- the City Code does not address homeless shelter; and,
- approving the variance without the parking issue will enable planning for construction to continue.

Chairman Fuchs indicated that the application appears to be premature until comments are made by the Unified Development Code Committee, Planning and Zoning and the City Council.

Assistant Community Development Director Worley explained that the timeline for the aforementioned review could take several months.

City Attorney Kidd indicated staff's having a concern with extending the decision until the UDC, P&Z and Council has had time for review and subsequent amendment. Mr. Kidd stated he prefers to extend the application to a date certain in June, 2006.

Mr. Bob Luzius, 237 S. Arizona, indicated the item was a discussion item at the UDC meeting on March 10, 2006 and is being addressed. He concurs with Attorney Kidd in postponing this item until a date certain.

Mr. Bruce Hella, 333 W. Leroux, noted his letter of opposition and requests notification when this item is continued.

Board members further queried and commented on:

- the terms "supervised living" and "assisted living"; and
- the issues raised by the Granite Creek Homeowners Association.

Mr. Warren, **MOTION: to continue V06-001**, 215 W. Leroux Street, until June 15, 2006 at 9:00 AM. Mr. Mabarak, 2nd. **Vote: 6-0.**

IV. REVIEW ITEMS

4. **V04-007, 306 E. Smoketree Lane.** Section 6.05. RA-9 zoning. Request 8' masonry wall. APN: 105-02-192S. Applicant/Agent Rich Radavich. Owner is Jeffrey A. Davis dba PL Consolidation (PL Golf Club). (CP: Bacon).
BOA Granted September 16, 2004 with 5 conditions: 1) The development of the property be in substantial conformance with the site plan dated August 9, 2004; 2) Three additional trees be planted along the street side to mask the wall and screen the interior; 3) A berm is to be placed against the perimeter of the wall to bring the height of the wall closer to appearing to be only 6 feet high along Smoketree Lane; 4) The wall is to be stuccoed; and, 5) Stem piers are to be added on the far west corner and the far east corner of wall facing street.
Finalled 06/03/05. (B0409-091).
5. **V04-006, 806 Norris Road.** Section 7.04. RA-35 zoning. A variance to permit a detached garage in front of an existing house. APN" 113-10-026. (CP: Bacon).
BOA Granted September 16, 2004 with 1 condition: The development of the property shall be in substantial conformance with the site plan dated September 9, 2004.

Finalled 02/08/05. (B0409-056).

6. **CUP04-005, 225 S. Summit Avenue.** Section 4.30.B.7. Request to allow a pre-school in RB zoning. APN: 113-12-103. Applicant/Agent is Michael Taylor. Owner is Bishop of the Roman Catholic Church of the Diocese of Phoenix. (CP: Baker).

BOA Granted with 5 conditions: 1) The development of the property shall be in substantial conformance with the site plan dated June 17, 2004; 2) An approved replat (combining lots) is recorded with the County Recorder's Office prior to building permit issuance; 3) All parking associated with this use, and the drop-off and pick-up of children, shall occur on the church parking lot and along the streets that front church-owned property only (Summit and Carondelet); 4) Eliminate access to the driveway off Summit Street; and, 5) That the Conditional Use Permit be reviewed in one year in order to determine the adequacy of drop-off and pick-up areas.

CUP was not pursued; however, change of use to a different permitted use was obtained by the applicant. Replat approved February 2005.

File closed. Not other action is necessary.

V. SUMMARY OF CURRENT OR RECENT EVENTS

Mr. Kayn thanked John Moffitt, retiring City Attorney, for his many years of hard work and service to the Board and his ability to interject a little humor along the way.

VI. ADJOURNMENT

Chairman Fuchs adjourned the meeting at 10:41 AM.

E. Calvin Fuchs, Chairman