

Hearing Minutes

**City of Prescott
Board of Adjustment
Public Hearing
Thursday, January 18, 2007 – 9:00 AM**



PLEDGE OF ALLEGIANCE AND MOMENT OF SILENCE

I. CALL TO ORDER

Chairman Pro Tempore Klein called the public hearing to order at 9:00 AM.

II. ATTENDANCE

MEMBERS PRESENT:

Mike Klein, Vice-Chairman
Duane Famas
Johnnie Forquer
Tom Kayn
Ken Mabarak
Bill Warren

OTHERS PRESENT:

George Worley, Assistant Community Development Director
Gary Kidd, City Attorney
Dick Mastin, Development Services Manager
Mike Bacon, Community Planner
Steve Gaber, Community Planner
Kathy Dudek, Recording Secretary

MEMBERS ABSENT:

E. Calvin Fuchs, Chairman

III. REGULAR AGENDA

1. **Election** of Chairman and Vice-Chairman for the period from January 18, 2007 and ending January 17, 2008.

Mr. Kayn, **MOTION: to elect Calvin Fuchs Chairman** of the Board of Adjustment from January, 18, 2007 through January 17, 2008. Mr. Famas, 2nd. **Vote: 6-0.**

Mr. Kayn, **MOTION: to elect Michael Kline Vice-Chairman** of the Board of Adjustment from January 18, 2007 through January 17, 2008. Mr. Warren, 2nd. **Vote: 6-0.**

2. **Approve the minutes** of the 11-16-06 public hearing.

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

3. **CUP06-009, 128 N. Washington Avenue.** APN: 114-05-026 and totaling ± 0.19 acre. LDC Section 2.3.1. Zoning is Multi-Family Medium (MF-M). Request conditional use permit for a pre-school. Owner is Caleb A. Palmer. Applicants/agents are Robert H. and Deborah A. McMillan. Community Planner is Mike Bacon (928) 777-1360.

4. **CUP06-010, 127 S. Mt. Vernon Avenue.** APN: 110-01-052 and totaling ± 0.25 acre. LDC Section 2.5 and Table 2.3. Zoning is Single-Family 9 (SF-9). Request conditional use permit for

WITHDRAWN

detached guest quarters. Owners/applicants are Charles R. & Christina C. Hastings. Community Planner is Ryan Smith.

Mr. Worley reviewed the staff report and indicated:

- the request is to convert the existing garage into a one-story, 594 square foot guesthouse;
- the applicant will then construct a new garage with the doors opening to the east, i.e., facing the alley;
- the shed roof on the existing garage will be removed;
- no concerns were raised by neighbors; and,
- staff supports this request.

Board members queried and remarked on:

- sufficient access to the parking area;
- requirements for paving the alley [Mr. Mastin: none, it is a dedicated public access]; and,
- percentage of lot coverage allowed [Mr. Worley: 35%].

Mr. Charles Hastings, owner, 127 S. Mt. Vernon, was present to answer any questions.

Chairman Klein asked if anyone from the public wished to speak. No one came forward.

Mr. Kayn, **MOTION: to approve CUP06-010**, 127 S. Mt. Vernon Avenue, subject to the following conditions: that the proposed guest house is built in substantial conformance to the site plan dated 08/21/2006. Ms. Forquer, 2nd. **Vote: 6-0.**

5. **CUP06-011, 3019 La Questa.** APN: 106-25-104 and totaling ± 0.65 acre. LDC Section 2.5 and Table 2.3. Zoning is Single-Family 35 (PAD) [(SF-35(PAD)]. Request conditional use permit for detached guest quarters. Owners are Billy J. & Kathleen J. Bond. Applicant/agent is Carter Builders, Inc. Community Planner is Mike Bacon.

Mr. Bacon reviewed the staff report and indicated:

- the request is for a detached guest quarters totaling 704 square feet;
- the applicant recently combined two lots into one lot;
- several homes in the area have detached guest quarters;
- one phone call was received from a neighbor who is concerned with blasting;
- if neighbors have questions, they may contact Fire Marshal Galde; and,
- staff is recommending approval in accordance with the site plan.

Mr. Don Carter, applicant, 3607 Crossings Drive, indicated that the proposed floor elevation was shot and it shouldn't require blasting; however, if blasting is required, then it would be a very minimal amount.

Mr. Howard Ross, 3026 LaQuesta, has concerns with blasting as the project is located across the street. He also voiced concerns that the "porta-potty" be relocated and that construction crews are hindering traffic parking on the street.

Board members queried and remarked on:

- including a condition regarding blasting that could be included in the motion [Mr. Bacon: yes];
- the procedures used by Carter Builders and/or blasting agent when blasting is necessary; and,
- what means and or processes an owner might take in case blasting damage occurs.

Mr. Carter stated that there is not a bond required that covers blasting damage; however, there is liability insurance that a blasting company procures. The proof would be the responsibility of

the homeowner if damage occurs. The biggest concern is where blasting occurs that is only 20-feet away.

City Attorney Kidd indicated specifications in terms of granting a conditional use permit that require fire codes, notification requirements, etc., may be made as a condition of approval. The Board may also require the blasting company or contractor to provide a copy of the blasting policy that gives the requirements and terms.

Further queries and remarks were made about:

- the notice timeframe that should be provided to the surrounding properties; and,
- the notice procedure, i.e., via writing and door-to-door, that should be conducted.

Mr. Carter indicated that he uses a door-to-door method to notify residents.

Mr. Howard Ross prefers to have a representative from Carter Builders walk through his house to check for damage prior to blasting. Mr. Ross wants to be on record as having concerns with the ensuing blasting; however, he does not have concerns with Carter Builders.

City Attorney Kidd indicated with the *LDC* changes taking place, Fire Marshal Galde will be looking at the blasting issue and the City's code within the next few months. At this point, no specifics have been addressed.

Mr. Warren made a motion with Mr. Kayn seconding. The original motion was amended and seconded as follows:

Mr. Warren, **MOTION: to approve CUP06-011**, 3019 La Questa, for a detached, non-rentable residence in an accessory building in accordance with Exhibit A dated January 18, 2007, and in accordance with Section 2.5.6C of the *Land Development Code (LDC)*, with the following four conditions: 1) If blasting is required, the residents within 300 feet will be notified in writing and/or verbally 48 hours before any blasting occurs; 2) the applicant adhere to strict conditions of the *LDC* and condition #1, whichever is the more stringent; 3) that proof of valid insurance coverage is provided to the City before any blasting permit is issued; and, 4) subject to *LDC* Section 2.5.6: Guest quarters may be utilized by guests and persons employed on site by the resident family of the principal dwelling unit. Mr. Kayn, 2nd.

Mr. Kayn questioned the blasting safeguards in place and wanted an additional condition for the homeowners' protection. He also indicated that homeowners could take out a temporary insurance policy. Mr. Kayn is also concerned with the "and/or" notification to the property owners.

Mr. Famas noted that when the permit is originally pulled, there is no requirement that an indication of future blasting shall occur.

Mr. Carter stated if this were a new construction, this would not even come before the Board.

Mr. Warren did not amend the foregoing motion when asked to do so.

Vote: 5-1 (Klein).

6. **V06-008, 319 S. Mt. Vernon Avenue.** APN: 110-03-034 and totaling ± 0.17 acre. *LDC* Section 3.6.3E4. Zoning is Single-Family 9 (SF-9). Request variance to encroach into corner yard

setback for a deck addition. Owner/applicant is Warren C. Kuhles. Community Planner is Mike Bacon.

Mr. Bacon reviewed the staff report and indicated:

- the request is for an encroachment of 8 feet where 15 feet is required on the corner year setback on Oak Street;
- the applicant would be denied a privilege that others enjoy if the variance is not granted;
- the existing porch on the west side also has an existing encroachment of 8 feet;
- this is a historic home and the Prescott Preservation Commission supports the owner's request for a variance; and,
- staff is recommending approval of this project.

Board members queried and remarked on:

- the property line in relation to Oak Street; and,
- the differences from the home in relation to today's existing codes.

Mr. Robert Burford, architect, 339 S. Cortez Street, indicated that Oak Street does not have a curb and gutter along the street.

The owner, Mr. Warren Kuhles was present to answer questions.

There were no further questions and no one from the public spoke.

Mr. Mabarak, **MOTION: to approve V06-008**, 319 S. Mt. Vernon Avenue, for a reduced setback in accordance with "Exhibit A" dated January 18, 2007. Ms. Forquer, 2nd. **Vote: 6-0.**

7. **V06-009, 335 Park Avenue.** APN: 109-08-082 and totaling ± 0.17 acre. LDC Section 3.6.3.E2&3. Request variance for a reduction of north (rear) and east (side) setbacks for construction of a kitchen and garage. Owners are Louis & Sherry DiBernardo. Applicant/agent is JTS Enterprises, LLC. Community Planner is Steve Gaber.

Mr. Gaber reviewed the staff report and indicated that:

- the applicant is requesting a 200 square foot addition to the existing residence;
- the applicant would like to construct a new 600 square foot garage and use a 0' setback on the east side of the property which would replace the substandard 280 square foot garage;
- the residence was constructed in the late 1920s and predates Prescott zoning codes;
- the request is not inconsistent with the neighborhood;
- the property has a shared driveway that actually goes through to Seal Avenue;
- the Prescott Preservation Commission supports the recommendation and voted 5-2 in favor of the request.

Board members queried and commented on:

- if the existing garage is at a 0' setback;
- Seal Street being unimproved and unpaved; and,
- the bisecting driveway and where Seal Street officially ends;

Mr. Jay Spothelfer, applicant, P O Box 12782, Prescott, explained the elevation with the garage doors being oriented to the west.

Mr. Mastin explained that Seal Street exists as a "paper street" and ends somewhere near Pioneer.

Mr. Warren, **MOTION: to approve V06-009**, 335 Park Avenue, subject to the conditions: 1) that the improvements be constructed in substantial conformance with the plans and drawings dated 01/18/07; and, 2) that the vehicle doors of the garage are to face west (i.e., facing the house). Mr. Mabarak, 2nd. **Vote 6-0**.

8. **CUP05-008, 2402 Desert Willow**. LDC Section 4.20.B. APN: 116-07-091. Request a conditional use permit for a detached guest house.
BOA approved 07/21/2005 with one condition: That the proposed guest house is built in substantial conformance to the site plan dated June 21, 2005.

Request for a 6-month extension, ending on or before July 19, 2007. (*Refer to letter in agenda packet*).

Mr. Kayn, **MOTION: to extend CUP05-008** for six months ending July 19, 2007. Mr. Famas, 2nd. **Vote: 6-0**.

9. **CUP05-009, 909 Fern Avenue**. LDC Section 4.20.B. APN: 116-07-010A. Request conditional use permit for a detached guest house.
BOA approved 08/18/2005 with the following two conditions:
- 1) That the proposed guest house is built in substantial conformance to the site plan dated June 28, 2005; and,
 - 2) That the Board of Adjustment permits 18 months for the completion of the guest house and main residence from the date of permit issuance.

Request for a 2-month extension, ending on or before March 15, 2007. (*Refer to letter in agenda packet*).

Mr. Kayn, **MOTION: to extend CUP05-009**, 909 Fern Avenue for three months ending April 19, 2007. Mr. Famas, 2nd. **Vote: 6-0**.

10. **CUP05-007, 1802 Bridge Park Place**. LDC Section 4.20.B. APN: 115-03-007Q. Request conditional use permit for a detached guest house/art studio.
BOA approved 07/21/2005 with the following three conditions:
- 1) That the proposed guest house is built in substantial conformance to the site plan dated May 29, 2005;
 - 2) That the art studio does not exceed the definition of a home-based business; and,
 - 3) That the Board of Adjustment permits 18 months to allow for completion of the guest house.

Request for a 6-month extension, ending on or before July 19, 2007. (*Refer to letter in agenda packet*).

Mr. Kayn, **MOTION: to extend CUP05-007**, 1802 Bridge Park Place, for six months ending July 19, 2007. Mr. Warren, 2nd. **Vote: 6-0**.

IV. REVIEW ITEMS

11. **V05-003, 509 & 511 E. Gurley Street**. APN: 110-01-043. Zoning is BG. Request a variance to reduce parking requirements for general office use.
BOA approved 07/21/2005 with the following five conditions:
- 1) That the site plan be developed in substantial conformance to the site plan dated "As Received" on February 17, 2005;
 - 2) That the cottage not be rented;

- 3) That the parking use of the site shall be revised at one year after the date of the variance being finished;
 - 4) That the owner shall post "no parking" signs on his property as approved by the City's Legal Department; and,
 - 5) That the property not be used for residential purposes.
- Finalled 07/20/2006.**

V. SUMMARY OF CURRENT OR RECENT EVENTS

None.

VII. ADJOURNMENT

Chairman Pro Tempore Klein adjourned the meeting at 10:37 a.m.

Michael Klein, Chairman pro tempore