



MINUTES
BOARD OF ADJUSTMENT
CITY OF PRESCOTT
Thursday, June 21, 2007 - 9:00 AM
City Council Chambers

PLEDGE OF ALLEGIANCE AND MOMENT OF SILENCE

I. CALL TO ORDER

II. ATTENDANCE

MEMBERS PRESENT:

E. Calvin Fuchs, Chairman
Mike Klein, Vice Chairman
Duane Famas
Johnnie Forquer
Tom Kayn
Ken Mabarak

MEMBER(S) ABSENT:

Bill Warren

OTHERS PRESENT:

George Worley, Assistant Community
Development Director
Gary Kidd, City Attorney
Dick Mastin, Development Services Manager
Mike Bacon, Community Planner
Wendell Hardin, Community Planner
Bob Bell, Council Liaison
Kathy Dudek, Recording Secretary

III. REGULAR AGENDA

1. **Approve the minutes** of the 05-17-07 public hearing.

Mr. Kayn, **MOTION:** to approve the minutes of the May 17, 2007 public hearing. Mr. Famas, 2nd. **Vote: 5-0-1** (abstention due to absence: Mabarak).

2. **V07-002, 325 E. Gurley Street (The Cleaning Machine).** APN: 109-01-055A and totaling ± 0.21 acre. LDC Section 3.6. Zoning is Business General (BG). Request variance to reduce side and rear setbacks. Owners are Loren Q. and Linda R. Rowling. Applicant/agent is Mark Peugh. Community Planner is Ryan Smith. (*Continued from 04-19-07 & 5/17/07*).

Mr. Worley reviewed the request for continuance and indicated:

- the request is for a variance on the side and rear setbacks for an accessory building in the southwest corner;
- it has been discovered that a portion of the property has joint ownership;
- to combine the parcels, the out-of-state owner needs to sign off on the plat so that the new plat may be recorded;
- the applicant is requesting one month's extension of the variance; and,
- staff is supporting the request for the extension to the July 10, 2007 public hearing.

Chairman Fuchs asked if the Board would be placed in the position of hearing yet another request for an extension at next month's meeting. Mr. Worley indicated that staff's perspective is that this item will be ready for the next BOA hearing.

Mr. Klein, **MOTION: to continue V07-002**, 325 E. Gurley Street, to the July 19, 2007 public hearing at 9:00 AM. Mr. Famas, 2nd. **Vote: 6-0.**

3. **CUP07-004, 2984 LaQuesta.** APN: 106-25-160 and totaling ± 0.60 acre. Zoning is Single-Family 35 (SF-35) Planned Area Development (PAD). LDC Section 2.5.6 and Table 2.3. Request conditional use permit for a detached guesthouse. Owners/applicants are William and Marju Berger. Community Planner is Steve Gaber (928) 777-1206.

Mr. Worley reviewed the staff report and indicated:

- the request is for an accessory building of approximately 360 SF located to the rear of property;
- the proposed detached guesthouse will meet the *Land Development Code (LDC)* requirements for setback, height, etc.; and,
- the project proposal includes a 25% lot coverage where 30% lot coverage is permitted.

Board members queried and commented on:

- the Southview subdivision having many properties with guesthouses; and,
- if using the guesthouse is permissible for an office [Mr. Worley: the detached guesthouse can be used for other purposes that are associated with uses in single-family zoning districts].

Mr. William Berger, owner/applicant, 2984 LaQuesta, was present to answer questions. No questions were asked.

Ms. Jolene Zimmerman, 1455 Creek Trail, owns the adjacent property to the south. Ms. Zimmerman had concerns because she believes the owner is interested in installing a dog run which would be placed near her master bedroom.

Chairman Fuchs stated that the Board is considering whether a conditional use permit for a detached guesthouse is appropriate. Anything concerning a dog run would be resolved by the Southview Homeowners Association or their architectural review board. The dog run is not within the purview of the Board of Adjustment.

Mr. Klein, **MOTION: to approve Conditional Use Permit CUP07-004**, for a detached guesthouse at 2984 LaQuesta, subject to the guesthouse being constructed in substantial conformance with the site plan dated May 1, 2007. Ms. Forquer, 2nd. **Vote: 6-0.**

4. **CUP07-005, 1361 Sierra Vista Drive.** APN: 107-05-062 and totaling ± 0.55 acre. LDC Section 2.5.6 and Table 2.3. Zoning is Single-Family 9 (SF-9). Request conditional use permit for a detached guesthouse. Owner/applicant is Homes Etc., LLC. Community Planner is Mike Bacon (928) 777-1360.

Mr. Bacon reviewed the staff report and indicated:

- the request is for a two-story, 1,500 SF detached guest house next to a 3,000 SF home;

- the applicant has submitted a new site plan where the guesthouse will be moved to the west side of the property;
- photos of the site and elevations were reviewed via the overhead projector;
- the grade of the site drops;
- the elevations make no mention of total height, however, this will be checked at the time of site plan review;
- a significant number of phone calls and letters opposing the proposal have been received;
- the primary structure is rented and several persons have questioned the need for a detached guesthouse;
- the current property owner will use the property when the current tenant's lease expires and the owner desires a guesthouse;
- staff is not making a recommendation at this time; and,
- the applicant/owner is not present but has sent an agent who is present today.

Board members queried and remarked on:

- the size of the property and the Single-Family 9 (SF-9) zoning;
- if the lot could be split [Mr. Bacon: no because of the hillside regulations];
- topographic exceptions; and,
- the proposed two separate driveways.

Mr. Mastin commented on the site. He has no issue with a secondary driveway because there is good site visibility.

Further queries and discussion by the Board included:

- the 20' setback requested where 25' is required;
- the utility pole between the property and adjacent property [Mr. Bacon: this would be addressed at the site plan review];
- the distance between the primary building and the detached guesthouse which is not shown on the site plan;
- attaching the guesthouse to the primary building would not necessitate a conditional use permit;
- under the *LDC*, could the owner live in the guesthouse [Mr. Bacon: absolutely not];
- a guesthouse protruding in front of the primary building's front setback; and,
- negating the topographic exception opportunity if the 25' setback is specified in the conditional use permit.

City Attorney Kidd indicated the Board could condition the front setback; however, he has concerns with the language appearing on the site plan which has recently been submitted. Another option for the Board could be inserting the condition of allowing an administrative adjustment to the front setback.

Chairman Fuchs questioned the compatibility of the surrounding with the 1,500 SF guesthouse request. The request appears to be a "whopper"—even the "McMansions" in Prescott do not request this amount of square footage when requesting a guesthouse.

City Attorney Kidd further proffered that the Board should look at whether the guesthouse fits into the neighborhood, are there other guesthouses in the neighborhood, and will approval set a precedence within the neighborhood.

Ms. Alisa Cool, 1052 Hoffman, agent for the applicant, was present to answer questions.

Board members queried and remarked on:

- based on correspondence from several residents in the neighborhood, there is a concern that this property will become a dual rental [Ms. Cool: the company has always followed all the rules of property rentals in the area. The owner has no intention of renting. The owner feels the views are better and when the current lease expires, she will have use of the guesthouse and do some remodeling. [The owner ?] has no intention of having two different tenants in there]; and,
- the scope and scale of the project is for the owner's own economic benefit.

Mr. Phillip Briggs, 7509 N. 13th Avenue, Phoenix, stated:

- the property is difficult to build on;
- the agent stated the owner will move into the guesthouse while the primary building is being remodeled;
- there is no way of enforcing the project if it becomes a rental;
- the project will "stack" to one side of the lot;
- the size of the project is atypical, there is a dining room, living room and two master bedroom suites—many houses have square footage that is smaller than this request;
- guests going to the main house will have to walk out in the street to get to the main house; and,
- no compelling reason or hardship has been made for the need of the guesthouse.

Mr. Bill Kiley, 886 Vallejo Vista Road, indicated:

- in his memo of June 6, there is a concern with the credibility of the applicant and the Better Business Bureau lists an "unsatisfactory record due to failure to respond to two or more complaints";
- there is scant information in the application to build a compatible guesthouse with the primary structure and the surrounding area;
- there are no other guesthouses in the area; and,
- if approved, a request for thoroughly monitoring all building aspects is requested.

Chairman Fuchs indicated the issue at hand is whether the guesthouse on this particular property is compatible with the surrounding area.

Mr. Taylor Hicks, Jr., 1371 Barranca Drive, indicated:

- he is concerned that the notice sent only to a 300' radius;
- many residents with concerns did not receive the notice;
- he is here to voice the objection to the project of the following persons who were unable to attend today's meeting: Mrs. Elisabeth Ruffner and Mr. Michael Murphy;
- all utilities must be connected to the main house, including the septic system, water and utilities; and,
- the present tenant has indicated that the septic system is inadequate and adding a 1,500 SF structure to the septic system will become even more problematic.

Chairman Fuchs indicated a need to recuse himself. He was not aware that his law partner, Michael Murphy, is opposed to the granting of a conditional use permit. Chairman Fuchs stated he will not participate in the consideration of this matter. Chairman Fuchs turned the meeting over to Michael Klein, Vice-Chairman of the Board; subsequently, Mr. Fuchs left the podium.

Ms. Ellen Kylie, 886 Vallejo Vista Road, indicated that the applicant appears to lack being forthright as the site plans have been changed significantly. The agent for the applicant indicated that the owner wants to build the guesthouse for her own use. The tenant had no

previous knowledge of the plans to build a guesthouse. The project is not appropriate for the neighborhood.

Ms. Terri Tatum, 1344 Sierra Vista Drive, indicated that the road is very narrow and, if approved, the project will cause an additional traffic hardship. Ms. Cool indicated that the owner wants to move into the house. The tenants were offered the chance to purchase the house for \$450,000 last month.

Mr. Charles Bacon, 1398 Sierra Vista Drive, is concerned with the background of this situation. There were attempts to discourage rentals within the neighborhood. How does a person really know the intent of the owner.

Mr. Larry Finley, 1366 Sierra Vista Drive, stated he lives directly across the street. He built his home with the knowledge that there were restrictions to building in a single-family area. Approximately 35' of proposed house will stick out farther than the main house. People do not need 1,500 SF guesthouses who have a home over 3,000 SF. Mr. Finley is opposed to this project.

Ms. Sandy Brunso, 1345 Sierra Vista Drive, is opposed to the two story project. The proposal is too cramped and does not belong in a single family neighborhood.

Mr. Kayn, prior to making a motion, referenced:

- most concerns about the parcel size and the project's impact on the neighborhood;
- dealing with a radical hillside;
- is this a reasonable, compatible request that doesn't impact the neighborhood; and,
- the lot size can be misleading given the topography.

Mr. Kayn, **MOTION: to deny CUP07-005**, 1361 Sierra Vista, request for a detached guesthouse. Mr. Mabarak, 2nd. **Vote: 5-0-1** (recused: Fuchs). **Request is DENIED.**

IV. REVIEW ITEMS

None.

V. SUMMARY OF CURRENT OR RECENT EVENTS

None.

VI. ADJOURNMENT

Chairman Fuchs adjourned the public hearing at 10:28 AM.

E. Calvin Fuchs, Chairman