



MINUTES
BOARD OF ADJUSTMENT
Thursday, December 20, 2007 - 9:00 AM
City Council Chambers
201 S. Cortez Street, Prescott, AZ

I. CALL TO ORDER

Chairman Fuchs called the public hearing to order at 9:00 AM.

II. ATTENDANCE

MEMBERS PRESENT

E. Calvin Fuchs, Chairman
Mike Klein, Vice-Chairman
Duane Famas
Tom Kayn
Ken Mabarak
Bill Warren

MEMBERS ABSENT

Johnnie Forquer

OTHERS PRESENT

George Worley, Assistant Community Development
Director
Gary Kidd, City Attorney
Mike Bacon, Community Planner
Steve Gaber, Community Planner
Wendell Hardin, Community Planner
Dick Mastin, Development Services Manager
Bob Luzius, Council Liaison
Kathy Dudek, Boards & Commissions Recording
Secretary

III. REGULAR AGENDA

1. **Approve the minutes** of the November 15, 2007 public hearing.

Mr. Mabarak, **MOTION: to approve the minutes** of the November 15, 2007 public hearing. Mr. Famas, 2nd. **Vote: 4-2** (abstention due to absence: Kayn, Warren).

2. **CUP07-009, 1323 Stetson Road.** APN: 114-06-087C and totaling ± 2.63 acres. Zoning is Business General (BG). *LDC* Section 2.3. Request conditional use permit for two self-storage or mini-storage buildings. Owner is Prescotttonian Motel Limited Partnership. Applicant/agent is Michael Taylor Architects. Community Planner is Mike Bacon (928) 777-1360.

Mr. Famas recused himself from this item because it is in proximity to where he resides.

Mr. Bacon reviewed the staff report and noted:

- the proposal is for two mini- or self-storage units;
- the location would be near the Prescotttonian Motel at Stetson Road;

- an area meeting was held and one resident had concerns with the amount of crime already in the neighborhood with the units possibly attracting more criminals. Another concern was the parking which is happening on both sides of the street at the Monday Club;
- areas to the south are residential, single-family homes;
- an 8-foot fence surrounds the property and will be retained;
- the site plan indicates two buildings; and,
- the entrance and exit will be via the motel parking lot.

Board members queried and remarked on:

- the resident's concern with crime in the area;
- whether the project will be similar to other storage facilities;
- the hours of access and operation [Mr. Bacon: it will be gated and will be in operation from 7 AM to 7 PM];
- how will this request impact the parking at the Prescottonian Motel;
- barbed wire only being permitted in the industrial zoning districts; and,
- security lighting [Mr. Bacon: they haven't indicated the lighting; however, lighting will have to meet the requirements of the *LDC*].

Mr. Robert Schreier, Prescottonian representative, 1317 E. Gurley, answering questions from Board members indicated:

- the hours would be from 7 AM to 7 PM and there is going to be a security gate;
- after the hours of operation, there will be no access;
- there will also be video surveillance;
- both buildings will be two stories high;
- there will be parking in front of each unit; and,
- the decision to have someone on site has not yet been made.

Councilman Bob Luzius, 237 S. Arizona Avenue, questioned whether the gate at the Monday Club will remain open. There is a major concern with ingress and egress. Mr. Shreier stated he didn't know the last time the gate was closed. The access will remain and will not be blocked off.

Mr. Klein, **MOTION: to approve CUP07-009** in accordance with the Exhibit dated December 20, 2007 with the following conditions of approval:

- 1) Monument signage only shall be permitted to be lighted;
- 2) Night-bright colors are not permitted for pan channel sign lettering;
- 3) No lighted building signage is permitted;
- 4) Implement any security measures recommended by the Prescott Police Department; and,
- 5) The hours of operation shall be limited to the time between 7 AM and PM.

Mr. Warren, 2nd. **Vote: 5-0-1** (recused: Famas).

3. **CUP07-010, 3054 Southpark.** APN: 106-25-057 and totaling ± 0.54 acres. Zoning is Single-Family 35 (SF-35) Planned Area Development (PAD). *LDC* Section 9.3. Request conditional use permit for a guest house addition. Owner is Licht Family Revocable Trust. Applicant/agent is P. M. Taylor Development. Community Planner is Wendell Hardin (928) 777-1259.

Mr. Hardin reviewed the staff report and indicated:

- the request for the guesthouse is in a Single-Family 35 (SF-35) zoning

- district;
- the structure is to be located at the southeast corner of the property and meets the setback requirements;
- the guesthouse will be located 10-feet away from the house;
- landscaping on the front and side will mask the addition from neighbors; and,
- the structure is not in a flood plain or floodway.

Mr. Mastin noted that the applicant should have an engineer study this request so that it does not impact the floodplain.

Mr. Hardin continued:

- the structure will be a legal, non-conforming structure;
- the pillars, along with ensuing change in water flow, are in question;
- the guest house will not have kitchen facilities;
- the main house is 2,870 square feet and the guest house request is 504 square feet;
- room exists in the driveway for the additional parking space requirement; and,
- no neighbors have voiced objection to this project.

Board members queried and remarked on:

- how far the drainage easement goes through the property [Mr. Mastin: the flow and swale run diagonally across the property]; and,
- is there a possibility that the structure cannot be built at the site that is submitted [Mr. Mastin: no, an engineer will have to determine how to fix an erosion problem with the pillars, however the project is doable].

Mr. Paul Taylor, applicant/agent, 1109 Old Hassayampa Lane, noted that it is not necessary to move the gatehouse. The deck is the only structure that gets close. The piers on the deck will be engineered.

Chairman Fuchs asked if anyone from the public wished to speak. No one came forward, and the public hearing was closed.

Mr. Klein, **MOTION: to approve CUP07-010**, 3054 Southpark, with the following conditions that:

- 1) The pillars are adequate in size; and,
- 2) The pillars will not impact the drainage.

Mr. Mabarak, 2nd. **Vote: 6-0.**

4. **V07-010, 2309 Country Park Drive.** APN: 116-01-053 and totaling ± 2.2 acres. Zoning is Single-Family 35 (SF-35). LDC Section 2.5.2.B. Request variance to allow an additional 2,800 SF accessory building. Owner/applicant is Emmons Investments. Community Planner is Steve Gaber (928) 777-1206.

Mr. Gaber reviewed the staff report and indicated:

- the applicant is requesting a second storage building on the property;
- the square footage (SF) under roof is 4,800 with another ± 2,800 SF accessory building;
- the storage building presently on the property is for a shop and that

- structure consumes the SF allowance;
- the reason for the request is that the owner is heavily involved with cars and car activities and wants to store them out of the elements;
- the public hearing notice generated calls from neighbors and passersby;
- two persons who originally opposed the project have withdrawn their objections;
- there is concern with adding landscaping and buffering to lessen the impact;
- the property is over two acres in size;
- the Emmons want to remove the clutter from the yard by storing the cars out of sight;
- the Board has a history of reviewing and approving oversized buildings in several instances;
- the General Plan views Country Park as low density, and the request fits in with the plan;
- the neighbors want the building to look more residential rather than commercial; and,
- the Emmons have been talking to the neighbors about softening the look and buffering the property.

Board members queried and remarked on:

- the property already being bladed and what circumstances led to the grading [Mr. Gaber: the copy of the grading permit was handed out this morning. The permit was a way to create a flat space]; and,
- how will access to the new structure be provided [Mr. Gaber: it is shown with the existing structure on the site plan].

Mr. James Musgrove, attorney for the Emmons, 1135 Iron Springs Road stated:

- the site plan shown does not identify the terrain;
- in the middle of the proposed building, there is a mound of dirt covered by boulders and a tree;
- access would be via a driveway at each end;
- the protestor has withdrawn the objection and will participate with the applicant in selecting bushes and trees to plant for screening;
- the current *Land Development Code (LDC)* list of low-water plants will be used; and,
- Ms. Christoff will participate in selecting the color that the building will be painted.

Board members further queried and remarked on:

- there is no clear indication on the drawings on how the access will occur; and,
- landscaping and color choice appear to be problematic.

Mr. Warren indicated he is uncomfortable with making a decision as there is not a clear picture of what is to occur on the property.

Mr. Musgrove responded that the type of landscaping is going to be determined upon the actual completion of the building. The entrance to the proposed building will not impact or change the access to the existing building. The access will be concrete. The applicant will not spend money until this item is passed; and, it is within the purview to specify the color, screening and landscaping as conditions in the approval.

Board members further queried and discussed:

- on which street the garage is being placed [Mr. Gaber: Ewan Drive, the side street which would require a 15-foot setback];
- has the application gone through the Pre Application Conference (PAC) [Mr. Gaber: this doesn't go through PAC as it is not a commercial project, and Mr. Emmons had a meeting with a couple of City Council members];
- the Fire Department review has not been done [Mr. Gaber: the project has not raised any red flags]; and,
- the roof line height, doors, etc., have not been shown [Mr. Musgrove provided the Board members with the documents denoting height].

Mr. Musgrove indicated that the building is a duplicate of the existing accessory structure with a 15-foot height. The Emmons have approximately 95,000 SF. The property could be divided, splitting the parcels. A building could be built with a 2,800 SF apartment on top and the building height would be more than 15-feet. Mr. Musgrove noted that Mr. Gaber agrees that the 2,800 SF, two-story building could be built. The Emmons' contractor went to the building department and obtained a permit to grade the property; and, at the time the contractor went to the building department, the contractor was told the building couldn't be done. Mr. Musgrove further explained that the building is not a commercial venture, but is a building that will be used for automobile storage. It is shop space and Mr. Emmons builds replacement parts in the current existing building.

Board members further discussed and questioned:

- where the cars are now [Mr. Musgrove: at the main house];
- does Mr. Emmons make parts for other people as a commercial venture [Mr. Musgrove: no, Jim Culbreth has withdrawn his objection, and this is not a hobby, the owner has been in the racing business for many years]; and,
- looking at this request in terms of the square footage allowed.

Chairman Fuchs indicated he takes a different view in granting variances. This is not a popularity contest. The Board must enforce the *LDC* as approved by the City Council. Unless there is something extraordinary on the property itself, to the extent that there may be no opposition, it does not relieve us of looking at all the information. [The Board] is charged by City Council to look at these cases and determine if they are appropriate.

Board members also queried:

- the total square footage under roof;
- the structure could possibly be encroaching into the setback [Mr. Musgrove: it is not violating the setback];
- whether the existing accessory building was built with a permit [Mr. Gaber: there is no way of answering whether it was or was not];
- making a decision based on the topographic exceptions with slopes of more than 20% [Mr. Musgrove: that is correct];
- whether the mound of dirt is in the right of way and/or will the landscaping be in the right of way;
- what documents were brought to the Building Department by the contractor [Mr. Musgrove: . . . don't know];
- ensuring that the building will not be used as a shop;
- having thorough documents would be more helpful; and,

- the original site plan calls out parking trailers between the two accessory buildings which does not accomplish keeping all vehicles out of the elements [Mr. Musgrove: two of the trailers will be stored on the slab.

Mr. Chauvin Emmons, owner, 2309 Country Park, stated that his intention was to get everything in the garage and is concerned with the height of the trailers going into the doors. The trailers will go into the garage doors as he cannot stand the way it [the cars on the property] looks now. He agrees with toning down the colors and hiding the structure with trees and shrubs.

Chairman Fuchs asked if the owner would object to not parking vehicles outside as a condition of approval. Mr. Musgrove indicated he could not agree to the condition.

Mr. Klein proffered that the biggest problem is that focus on the issue is being lost. The issue of the variance is based on a slope question. There is not enough information to make a judgment, *i.e.*, the slope of the property and the ability to construct [the structure] by the house.

Mr. Klein, **MOTION: to postpone V07-010**, 2309 Country Park Drive, until the January 17, 2008 public hearing at 9:00 AM. Mr. Warren, 2nd.

Mr. Kayn indicated he doesn't see the value of continuing this request. He is concerned with the access vehicles.

Mr. Musgrove addressed Mr. Klein's concern of what more can be done. There are more than 20% slopes, and the farther back this is placed, the more cut will need to be done. The neighbors who would be viewing the structure have all presented letters in support.

Mr. John Cunningham, 2301 Cyclorama Drive, indicated Mr. Emmons' building is nicer than many of the homes in the area. He has no problem with the request. The neighbors will be involved in the color choice as well as the landscaping. Only three or four homes view the structure. Even with the vehicles parked between the structures, the vehicles will be barely visible.

Mr. Klein asked to withdraw the motion; however, Mr. Warren called the question.

Chairman Fuchs called the question of considering postponing this item until the January 17th public hearing at 9 AM in Council Chambers.

Vote: 5-1 (Kayn).

Mr. Musgrove asked for an identification of what types of information they [the Board] want to see. Mr. Fuchs responded with the following items:

- 1) a site plan drawn to scale;
- 2) elevations of the proposed building;
- 3) position of driveway drawn to scale;
- 4) landscaping, both existing and proposed;
- 5) parking calculations denoted on site plan;
- 6) an accurate calculation of square footage under roof of each building presently located on property;

- 7) a conceptual drawing of the proposed building to be more residential in design; and
- 8) any other information the applicant wishes to provide.

IV. REVIEW ITEMS

5. **Prescott Lakes, Temporary Use Permit** for a trailer at the Pro Shop.
BOA granted February 21, 2001.
BOA extension on 12-16-04 for a period of three years, to expire on December 31, 2007.

Mr. Worley asked the Board to consider an extension for the trailer.

Mr. Kayn, **MOTION: to grant an extension** to the Temporary Use Permit for Prescott Lakes for a period of three years to expire on December 31, 2010.
Mr. Mabarak, 2nd. **Vote: 6-0.**

V. SUMMARY OF CURRENT OR RECENT EVENTS

Mr. Kayn inquired about Planning & Zoning Commission's recent vote not to amend the guest quarters section of the *Land Development Code*. Mr. Worley provided a brief explanation. Mr. Kayn would like to see the Unified Development Code Committee add another member from the Board of Adjustment.

VI. ADJOURNMENT

Chairman Fuchs adjourned the public hearing at 11:17 AM.

E. Calvin Fuchs, Chairman