

**BOARD OF ADJUSTMENT  
PUBLIC HEARING  
August 29, 2008  
PRESCOTT, ARIZONA**

**MINUTES OF THE PUBLIC HEARING OF THE BOARD OF ADJUSTMENT held on August 29, 2008 in COUNCIL CHAMBERS, CITY HALL located at 201 S. CORTEZ STREET, Prescott, Arizona.**

**I. CALL TO ORDER**

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

**II. ATTENDANCE**

<b>MEMBERS PRESENT</b> Michael Klein, Chairman Duane Famas, Vice-Chairman E. Calvin Fuchs Johnnie Forquer Tom Kayn Ken Mabarak	<b>OTHERS PRESENT</b> Matthew Podracky, Sr. Assistant City Attorney Mike Bacon, Community Planner Richard Mastin, Development Services Manager Kelly Sammeli, Recording Secretary
<b>MEMBERS ABSENT</b> Bill Warren	<b>COUNCIL PRESENT</b> Jack Wilson, Mayor Bob Luzius

**III. REGULAR AGENDA**

- 1. Approve the minutes** of the June 19, 2008 public hearing.

Mr. Fuchs, **MOTION: to approve the minutes** of the June 19, 2008 public hearing.  
Ms. Forquer, 2<sup>nd</sup>. **Vote: 6-0-1** (abstention due to absence: Warren).

- 2. V08-001, 342 S. Mount Vernon Avenue.** APN: 110-03-021 and totaling ± 0.17 acre. LDC Section 3.6.3 Zoning is Single-Family 9 (SF-9). Request is for a variance for north and south property lines for rear expansion and new garage. Owner is Jeff Riley. Applicant /agent is Adams Architecture & Planning. Community Planner is Mike Bacon (928) 777-1360.

Mr. Bacon reviewed the staff report and indicated the request was for a reduction in setback requirements on both the north and south property lines of the property, to allow for a rear expansion that would stay in conformance with the existing house, and to build a new garage to replace the substandard sized garage situated on the property line. Mr. Bacon informed the Commission that the new garage would be constructed as a drive-through garage to allow for

entrance off of Mount Vernon and exiting into the alley, and to help reduce the hazard of backing up a steep grade for more than 90 feet. Continuing, Mr. Bacon reported that the garage would require a sideyard setback variance in order to line up with the current driveway location, and to allow access past the house. Mr. Bacon then reported on the second request for reduction of setback; to allow a 3' 8" sideyard setback to extend the building footprint for the house along the north property line for the proposed addition keeping in line with the existing line of the wall of the home. In closing the staff report Mr. Bacon added that the owners had previously been before the Historic Preservation Commission that voted to support the variance request, and if the variance request is granted by the Board of Adjustment the owners will be returning before the Historic Preservation Commission for approval of the building design prior to construction. Mr. Bacon then indicated that he would answer any questions and that the applicant was also present to answer any questions.

Commissioners queried:

Commissioner Kayn asked if the garage on the south side of the property already had a zero yard setback, why were the applicants requesting for reduction in setbacks.

Mr. Bacon responded that because the garage would have to be torn down and rebuilt the new structure would have to meet the current setback requirements for the zoning district.

Commissioner Famas asked about the steepness of the grade between the house and the location of the garage.

Mr. Bacon indicated that the slope would not be more than 20%.

Mr. Adams, 9040 N. American Ranch Road, representative for the property owner indicated that the existing garage would be torn down because of its poor condition. Continuing he informed the Commission that the house and garage are located within a Historic District and were built many years ago. Further he reported that when the garage is torn down it will lose its existing grandfathered location, the slope of the property is about 30%, and a Civil Engineer will be hired to design the layout.

Commissioner Mabarak indicated that he found the slope of the lot to be steep and was concerned with the density of the lot coverage.

Commissioner Famas spoke at this time and indicated that he has always had a problem with zero lot line setbacks and if the garage is over the property line even a little bit it could cause a neighbor dispute. Stating that it is easy to reflect the structure being on the property line on paper, but it is a different situation when the footing are dug.

Chairman Klein then asked the applicant if he cared to address the board at this

time.

Mr. Adams informed the Commission that the existing house does not have eaves and according to the current survey the six foot retaining block wall of the neighbors is encroaching into this property. Continuing, Mr. Adams indicated that because of the driveway tightness, they are very limited at the entrance of the garage. The owner would like to use the garage by entering off of Mount Vernon and exiting into the alley.

Commissioner Fuchs stated that the garage encroachment was understandable however, he thought the new addition should not be based on a hardship. Continuing he explained that the owners were aware of the limitations of the historical home when they purchased it and that in itself is a self imposed hardship.

Mr. Bacon informed the Commission that with homes located within a Historic District it is one of the requirements to keep the integration of the building and not construct out of the existing building footprint.

Commissioner Mabarak asked staff how the lot coverage was determined.

Mr. Bacon responded that the existing house plus any new additions would be calculated, including any accessory structures.

Commissioner Mabarak remarked that the plans before the Commission appeared to reflect an encroachment on the neighboring property.

Mr. Bacon informed the Commission that the City would not allow encroachments on neighboring properties for any reason however, a reduction in the required setback for each property could be considered, as in this case.

Commissioner Mabarak asked Mr. Bacon to provide the lot coverage of the property with the new items being requested.

Mr. Bacon stated that the property dimensions were 50X100 totaling 7500 square feet of lot with the structures totaling 2,648 square feet of coverage.

Commissioner Kayn stated that he would really like to hear how Mr. Famas would vote on the item.

Commissioner Famas shared with the Commissioners that in reviewing the topography of the property and the proposal; to place the structure at a zero lot line is not possible.

Commissioner Kayn responded that the Commission is being asked to approve the variance based on a reduction of setbacks.

Mr. Bacon reminded the Commissioners that there are zero lot lines all over the

downtown area of Prescott.

Commissioner Kayn responded that the responsibility of the applicant to reach the zero setback is not the Commission's concern and that with Mr. Famas' knowledge the Commission could approve the variance with conditions.

Mr. Bacon informed the Commissioners that they could have a condition of approval to reflect the plans as drawn to design.

Commissioner Fuchs commented that they also have the option of not granting the full setback reduction request.

Mr. Adams, applicant for the property owners, informed the Commissioners that they were not looking for a zero lot line setback for both the north and the south property lines.

Chairman Klein invited the public comment at this time.

There was no public comment.

Commissioner Fuchs, **MOTION:** to approve V08-001 in accordance with the site plan dated July, 17, 2008. Mr. Kayn 2<sup>nd</sup>.

Further discussion ensued resulting in the original motion being withdrawn.

Commissioner Mabarak voiced his concerns of the site plan showing the new garage over the property line.

Mr. Adams responded that the owner has spoken with the adjacent property owner about fixing the encroaching block wall. Further stating that they have to go back before the Preservation Commission with the specific finished plan design prior to construction if approved.

Commissioner Mabarak asked Sr. Assistant City Attorney, Matt Podracky if the Commission approved the site plan as it was presented if would that cause problems in the future for the City.

Mr. Podracky, responded no that the request before the Commission had to do with the fact that the property lays within a Historical Preservation District, that the property had some topography issues, and has pre-existing structures that encroach in the setbacks. Further, Mr. Podracky informed the Commissioners that the plans would have to be completely in conformance of the Land Development Code.

Mr. Fuchs, **MOTION:** approval to grant V08-001, the sideyard setback in substantial conformance with the site plan dated July 16, 2008.

Mr. Kayn, 2<sup>nd</sup>. **VOTE: 6-0.**

**IV. REVIEW ITEMS**

None.

**V. SUMMARY OF CURRENT OR RECENT EVENTS**

None.

**VI. ADJOURNMENT**

Chairman Klein adjourned the meeting at 10:16 AM.



Michael Klein, Chairman



Kelly Sarmeli, Recording Secretary