

**BOARD OF ADJUSTMENT
PUBLIC HEARING
JUNE 18, 2009
PRESCOTT, ARIZONA**

MINUTES OF THE PUBLIC HEARING OF THE BOARD OF ADJUSTMENT held on **JUNE 18, 2009** 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

MEMBERS PRESENT

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

MEMBERS ABSENT

Bill Warren

OTHERS PRESENT

George Worley, Asst. Community Development Director
Richard Mastin, Development Services Director
Matthew Podracky, Senior Assistant City Attorney
Mike Bacon, Community Planner
Steve Gaber, Community Planner
Kelly Sammeli, Recording Secretary

COUNCIL PRESENT

Councilman Bell

III. REGULAR AGENDA

1. Approve the minutes of the June 18, 2009 public hearing.

Mr. Kayn, **MOTION: to approve the minutes** of the June 18, 2009 public hearing. Mr. Fuchs, 2nd. **VOTE: 5-0-1** (abstention due to absence: Famas).

2. Reconsideration of V09-003, 319 S. Mt. Vernon Street. APN: 110-03-034 and totaling ± 0.17 acre. LDC Section 3.6.3.D. Zoning is Single-Family 9 (SF-9). Request a variance to increase lot coverage to 46% where 40% is allowed for a freestanding garage and reduce the corner lot setback from 15-feet to 7-feet which would be compatible and in line with the existing 7-foot corner setback of the home. Owner is Warren C. Kuhles. Applicant/agent is Robert Burford, Robert Burford Architects. Community Planner is Mike Bacon (928) 777-1360.

Mike Bacon, Community Planner reported that at the May 21, 2009 meeting the Board voted to deny the variance request for an increase in the maximum lot coverage and to reduce the corner lot setback from 15 feet to 7 feet. Mr. Bacon further reported that the applicant has requested that the Board reconsider the request and to only look at the lot coverage. Continuing, Mr. Bacon reported that under *Robert's Rules of Order*, the Board can bring the item back, provided that a member of the prevailing opinion makes the

request to do so. Mr. Bacon noted that the Board vote was spilt 3-3; and, if the Board moves forward it may bring the item back. The applicant has requested the item to be rescheduled for the August 20, 2009 meeting at 9:00 AM as he will be out of town during July.

Chairman Klein called for a motion from the prevailing side.

Mr. Fuchs, **MOTION: that the Board reconsider** the request for variance with respect to maximum lot coverage at 319 S. Mt. Vernon Street, as the applicant has withdrawn the request for the corner yard setback; and, in light of the new position of the applicant, that the Board reconsider Variance, V09-003. Mr. Mabarak, 2nd. **Vote: 6-0.**

Board of Adjustment member(s) voting for: Famas, Fuchs, Forquer, Kayn, Klein & Mabarak.

Board of Adjustment member(s) voting against: none.

Board of Adjustment member(s) absent: Warren.

Chairman Klein noted that the variance request would be brought back for reconsideration at the August 20, 2009 public hearing at 9:00 AM.

3. **CUP09-002, 648 Cherry Drive.** APN: 108-09-027 and totaling ± 0.46 acre. *LDC* Section 2.5.6 and Table 2.3. Zoning is Single-Family 18 (SF-18). Request a conditional use permit for a detached guesthouse. Owner/Applicant is Gary Stogsdill. Community Planner is Steve Gaber (928) 777-1207.

Steve Gaber, Community Planner, reported that the request was for a 600 square foot, two-story guest house which would be located at the rear of the property at 648 Cherry Drive. The property is located north of Copper Basin Road in the Cortez Park Subdivision, and development of the neighborhood dates back to the 1930s and 40s. Mr. Gaber further reported that the primary house was a "catalog home" that was built in 1949 and is about 900 square feet. The guest home is designed with two stories to provide for solar; and the occupant of the home would be the applicant's mother. Mr. Gaber noted that staff was contacted by several of the neighbors regarding the proposal. Ms. Romie Haberie who owns the property immediately to the north had questions about the location of the guesthouse, how it might affect her privacy, and if the guesthouse could become a rental. Mrs. Jan Heffelfinger, the owner across the street and Mrs. Ramsey, the owner along the southwest side, also had questioned the possibility of the guesthouse being a rental. Mr. Gaber noted that the discussions with these neighbors did not result in objections to the request and explained that the *Land Development Code (LDC)*, Section 2.5.6. C and 2.5.6.F prohibit the rental of these types of units. In closing, Mr. Gaber acknowledged the neighbors concerns and indicated that the request would not have a significant impact to the neighborhood, there are other existing guest homes in the area; however, they predate the current code, and the neighbors were glad to be informed of the request in advance and learn about the process. There are no impacts on the infrastructure; the request is consistent with the General Plan and the *LDC*, and staff recommends that the application be approved.

Chairman Klein called for questions from the Board.

Mr. Kayn inquired about the use of the wood stove and if it would be inspected.

Mr. Gaber indicated that the wood stove would be a secondary source of heat and that it would be checked as part of the building inspection process.

Chairman Klein invited the applicant, Mr. Stogsdill to the podium to speak and called on the Board for questions to the applicant.

Mr. Gary Stogsdill, 648 Cherry Drive introduced himself.

Mr. Mabarak inquired what the overall height of the guesthouse was including the stovepipe.

Mr. Gaber indicated that without knowing the scale of the drawing he could not determine the overall height; however, an allowance of 3 feet over the roof line, to allow for chimneys, stovepipes, or antennas is allowed in the code.

Mr. Mabarak inquired if the zoning district allowed for the 20 foot height of the structure.

Mr. Gaber reported that the *LDC* allows for accessory structures to be up to 20 feet.

Mr. Mabarak inquired about the height of the primary structure.

Mr. Gaber reported that a primary structure could be built to a height 35 feet maximum.

Mr. Mabarak inquired how large a house could be put on the lot if it was not a guesthouse.

Mr. Gaber reported that with 30% lot coverage allowance, a very large home could be built.

Mr. Mabarak asked Mr. Stogsdill about his elderly mother being able to utilize the stairs.

Mr. Stogsdill indicated that his mother was very active and that he feels that she will be able to use the stairs.

Mr. Kayn inquired what the solar on the house would be utilized for.

Mr. Stogsdill indicated that he would like to utilize the solar as much as possible and that is why the structure is as high as it is.

Mr. Kayn inquired about the use of the solar panels and the visual impact for the neighbors.

Mr. Gaber reported that there are not any current limitations in the code that addresses solar.

Chairman Klein opened the item up for public comment.

Ms. Fran Pierson, 645 Cherry Drive (no signature on record), indicated that she lives directly across the street and has no objection to the request as she also intends to build a guesthouse for herself in the future.

Chairman Klein called for other comments or questions. Hearing none, he closed the public portion and called for a motion.

Mr. Fuchs, **MOTION:** that the Board approve the Conditional Use Permit application, CUP09-002 for a detached guesthouse located at 648 Cherry Drive subject to the guesthouse being constructed in substantial conformance with the site plan dated June 10, 2009. Mr. Famas, 2nd. **Vote: 6-0.**

4. **V09-004, 1102 Iron Springs Road.** APN: 115-09-057A and totaling ± 7840 square feet. *LDC Table 6.12.5A & 6.12.5B and Section 6.12.8.A.* Zoning is Business General (BG). Request variance to relocate the existing free-standing sign to the roof of Lloyd's Liquors. Owner is Don Moon. Applicant/agent is Otwell and Associates Architects. Community Planner is Mike Bacon (928) 777-1360.

Mr. Bacon, Community Planner reported that the request was to relocate the existing iconic, freestanding sign for Lloyd's Liquors, to a new location on the site. Mr. Bacon placed photographs of the location and the sign on the overhead projector and indicated that the sign is located on Iron Springs Road. Mr. Bacon reported that the applicant was proposing renovations to the outside of the building and relocating the porte cochere further to the east to provide for better maneuvering and stacking room for the drive-up window. The reason for the move was because several years ago when Iron Springs Road was widened, both sides of the right-of-way frontage were reduced by approximately 5 to 10 feet, thus impacting the turning movement into the driveway areas.

Mr. Bacon further reported that the applicant would like to use the current free-standing sign by relocating it to the roof, where the overall height would be somewhat less than the current sign now; however, placing the sign on the roof would require a variance because the current code does not allow for placement of signage on the roof area. Mr. Bacon reviewed the criteria for granting a variance. Mr. Bacon indicated that because of the widening of Iron Springs Road, the front of the building, the porte cochere, and drive-up window are closer to the street and have created a very unsafe condition. Mr. Bacon continued to report that due to the location of the pole-mounted sign, its supporting CMU posts, and the narrowness of the driveway, the request has extraordinary conditions. When the road was widened, the frontage and the size of the property was reduced; and, although the applicant has proposed to relocate the sign, the hardship is not the result of the applicant's own action. Mr. Bacon noted that Prescott is noted for its historic districts and their tourist appeal and was designated a "Preserve America Community" by Laura Bush in 2004. The City of Prescott has a list of signs in the *Land Development Code* which have reached "icon" stages; and, although Lloyd's Liquors sign is not on the list (nor are any other signs located outside of the downtown area), it could be argued that it has reached the "icon" stage as it is the only sign of its type in Prescott as well as the only long-standing sign in the area of Iron Springs Road. Mr. Bacon further noted that the request did receive unanimous support from the Prescott Preservation Commission. The overall height of the sign will not be increased by being located on the roof and the architect has explained to staff in detail that relocating the sign pole on the site is not feasible. In closing, Mr. Bacon reported that the architect was present to provide an overview of the project details. Mr. Bacon further noted that the overall size of the signage has been grandfathered. However, once it is moved, it could technically be considered new signage and that is why the request is to relocate the sign

at its current size. Mr. Bacon concluded the staff report by indicating that staff recommended approval of the request.

Chairman Klein invited Mr. Otwell to the podium.

Mr. Bill Otwell, Otwell & Associates, 121 E. Goodwin noted that he would be providing a PowerPoint™ overview of the project for the Board. Mr. Otwell reported that the sign was currently pole mounted and that the proposal was to relocate it on the building. Several older signs located throughout Prescott were displayed on the screen as Mr. Otwell noted that the Lloyd's Liquors sign at 48 square feet is oversized compared to today's standards. Mr. Otwell indicated that his client, Mr. Moon, intends to redesign and improve the visual character of the building and focus his business towards a specialty wine and beer boutique. However, he would like to keep the unique sign as it is a very important part of the business. Mr. Otwell continued with the PowerPoint™ noting a photograph reflecting backed-up traffic on Iron Springs Road and indicating that the current location of the sign pole is the main issue for the turning radius into the location; consequently, people have to almost stop to turn into the location. Mr. Otwell noted that two cars will block the sidewalk, three cars will block the right traffic lane and that this scenario occurs on a daily basis. Mr. Otwell reported that their proposal is to eliminate the entire pole, eliminate the first column, and move the drive-thru structure one car length to the east. Mr. Otwell indicated that by removing the column and eliminating the sign pole, it will open up the area visually and allow for easier access as well. Mr. Otwell concluded his presentation by noting the improvements to the building and noting that relocating the sign on the building would be a visual improvement and that a possible change in the current code should be considered.

Chairman Klein called for questions from the Board for either staff or Mr. Otwell.

Mr. Kayn inquired if the applicant chooses to change the sign in the future would there be the ability to locate a new sign in place of the iconic sign on the roof if the variance was approved.

Mr. Bacon indicated no because the variance is for this sign only and if they applied for a new sign and wished to put it on the roof; they would have to apply for another variance.

Mr. Kayn asked if it was for this particular sign only and nothing could take its place.

Mr. Bacon noted that was correct because the whole origin is because it is a historical iconic sign.

Mr. Kayn inquired if the applicant wanted to place a new sign on the roof that complied with the current code would that be acceptable.

Mr. Bacon noted that all roof mounted signs are prohibited.

Mr. Kayn inquired if the sign was lighted.

Mr. Bacon indicated yes.

Mr. Kayn inquired if there was additional signage being proposed for the building or on the site and if that would be allowed.

Mr. Otwell indicated that there was no additional signage being requested; however, there was signage over the front entry that will stay in place.

Mr. Bacon noted that no additional signage would be allowed because what the site has exceeds the current code and is grandfathered.

Mr. Kayn indicated that the telephone pole was not shown in the new rendering of the site and inquired if the pole would be removed.

Mr. Otwell indicated that he did not place it in the rendering; however, the telephone pole would remain at the location.

Mr. Kayn inquired if egress and turning radius is acceptable to the City.

Mr. Bacon noted yes that there was adequate access to the rear parking and access to the street located to the north of the site.

Mr. Kayn noted that his main concern was that if the old sign was removed, another sign would be allowed without another variance.

Mr. Fuchs inquired what the reason was that the *Land Development Code* prohibits signage on the roof.

Mr. Bacon indicated overall it had to do with the blocked views and the aesthetic impact that the signage had.

Mr. Kayn pointed out that if anyone had ever driven down Lincoln Blvd. in Los Angeles, California, they would understand why roof signs were prohibited and then inquired if the sign was lighted.

Mr. Bacon reported that the sign was a lighted barrel-shaped sign with neon and a flashing arrow.

Mr. Otwell indicated that the lighted arrow moves and does not flash.

Chairman Klein called for other questions or comments from the Board, hearing none opened the item for public comment.

Hearing no public comment Chairman Klein closed the public portion and called for a motion.

Mr. Kayn, **MOTION: that the Board approve Variance V09-004**, for the removal and relocation of an existing iconic sign for the property located at 1102 Iron Springs Road, per the site plan submitted April 20, 2009. Mr. Mabarak, 2nd. **VOTE: 6-0.**

IV. REVIEW ITEMS

5. Staff review and update of V07-009, 128 S. Mt. Vernon Avenue.

Variance V07-009 was approved to allow an accessory building at 25'8" (where 20 feet is permitted) and lot coverage of 45.9% (where 40% is permitted). The City has been

informed that the property owner, Belveal Trust, will not proceed with the project. *(No action by the Board is required).*

Mr. Worley noted that variance request V07-009 was previously granted by the Board and would allow the applicant to exceed the allowable lot coverage. The owners do not intend on pursuing the project and the variance will be allowed to lapse.

- 6. Staff review and update on CUP06-003**, 2001, 2015, 2023, 2027, 2039 Willow Lake Road. APNs: 106-13-025P, -025Q, -025R, -025S, -025T. This conditional use permit was approved to allow the owner, Fred Brown, to convert the "Green Acres Apartments" to offices. The conversion has been slowed for a variety of reasons. At this time, one unit is occupied as an office, several units are residentially occupied and several units are vacant. *(No action by the Board is required).*

Mr. Worley noted that the project known as "Green Acres" does not have much activity going on; however, there is currently one office unit that is occupied and the CUP is still active. Mr. Brown does not have to come back to renew the CUP as it runs with the land.

V. SUMMARY OF CURRENT OR RECENT EVENTS

Mr. Kayn announced that on June 28, 2009, the Nazarene Church will hold their annual "Celebrate America" show that is open for the public to attend.

V. ADJOURNMENT

Chairman Klein adjourned the meeting at 9:45



Michael Klein, Chairman

Kelly Sammeli
Recording Secretary