



Town of Paradise Valley

6401 E Lincoln Dr
Paradise Valley, AZ 85253

Minutes

Board of Adjustment

Wednesday, January 3, 2018

5:30 PM

Council Chambers

1. CALL TO ORDER

The meeting was called to order at 5:30 p.m.

Staff Members Present

Town Attorney Andrew Miller
Community Development Director Eva Cutro
Planner George Burton

2. ROLL CALL

Present 6 - Chairperson Emily Kile
Board Member Catherine Kauffman
Board Member Eric Leibsohn
Board Member Jon Newman
Board Member Hope Ozer
Board Member Quinn Williams

Absent 1 - Board Member Rick Chambliss

3. EXECUTIVE SESSION

None

4. STUDY SESSION ITEMS

A. 18-007 Emerson Variance – 5739 N Casa Blanca Drive (APN: 173-08-004A) Case No. BA-17-04

George Burton, Planner, presented the history on this application, noting that Right-of-Way was dedicated and the walls became non-conforming due to decreased setbacks. The applicant is now proposing a remodel over 50% and the Town Code requires that all walls shall be brought into conformance. The applicant is requesting a variance to allow the non-conforming walls to remain. The north wall is 10.4 feet from the property line and the south wall is 11 feet from the property line. The Code requires a 20-foot setback. Staff is recommending denial of this application due to the lack of a hardship on this property.

It was noted that the location of the wall will not impact the location of the home improvements. Three letters of support were received. There was discussion regarding the pool. It was noted that the wall may be in the pool if it is relocated. However, the pool will also be remodeled. The applicant

explained that there was no Right-of-Way along Palo Verde prior to the applicant dedicating it in 2002.

**B. 18-008 Holyoak Variance – 6641 E Ironwood Drive (APN: 174-36-004)
Case No. BA-17-045**

George Burton, Planner, provided the history on this request. He noted this is a variance request to allow a new wall at the south property line along Mockingbird Lane. The wall is proposed at 6'3". The Code allows a 6' wall at a 20' setback along a ROW. It was noted that the adjoining properties have walls at the property line. Staff is recommending denial of this application due to the lack of a property hardship necessitating a variance.

There was discussion regarding whether the adjoining walls were part of a subdivision wall. There was no proof of that, but since this property did not have this wall it was not determined if the adjoining lots have a subdivision wall.

5. PUBLIC HEARINGS

**A. 18-007 Emerson Variance – 5739 N Casa Blanca Drive (APN: 173-08-004A)
Case No. BA-17-04**

Cameron Carter, Rose Law Group, presented for the applicant. Mr. Carter explained that this lot is unique because it is a peninsula lot with roads that were created after the home was constructed and that the lot developed over 70 years ago.

In 2002 the lot was redeveloped and Right-of-Way (ROW) was dedicated. Mr. Arshadi, then Community Development Director, issued a letter stating that all new structures must be in conformance with the Town Code. At that time the wall setback was 10' and the walls were built in conformance. In 2004 the Code was amended to require a 20' setback. The Emersons purchased the property a year ago.

The applicant believes this lot is unique as it is the only peninsula lot in the Town that is not in a subdivision. The distance from the ROW pavement is over 20', giving the appearance of a greater setback. The conditions are not self-imposed since they were created due to required roadway dedications.

There was discussion of the proposed plan that was included in the packet. It was noted that this shows a new pool and a substantial remodel. Mr. Carter noted that this is not a final plan. Mr. Blockberger, architect, gave additional information on the remodel. It was noted that this is an oversized lot at 2 plus acres. The applicant noted that they have a 40' main house setback on all sides.

The Board discussed whether there is a true hardship on this property. Mr. Blockberger stressed that moving the walls will greatly affect the existing Improvements, including the pool and basketball court. Mr. Carter added that the uniqueness of this lot does not give the homeowner the same rights

as other properties in the Town.

There was discussion of changing the walls to view fences, which could remain at their current setbacks.

It was also noted that the pool and sport court would have to be relocated to meet setbacks if they are remodeled by more than 50%.

At 6:38 pm the meeting was opened for public comment.

Fife Symington - spoke in favor of the variance request due to the lot having roads on three sides. He is the immediate neighbor and believes the current wall is aesthetically pleasing and the landscaping mature.

At 6:45 the public comment was closed.

Board Member Leibsohn made a motion for denial. Board Member Kauffman seconded the motion. Board Member Williams is in favor of the variance due to the uniqueness of the lot and because the walls are existing. Board Member Leibsohn believes that other options exist for this homeowner. Board Member Williams believes denying this discourages people improving their property. Chairman Kile believes this is a tough case. Board Member Williams asked if the Mr. Arshadi letter gave the applicant any vested rights. Mr. Miller does not believe it gives any vested rights.

The motion was made by Board Member Leibsohn, seconded by Board Member Kauffman, to deny the variance request. The motion carried by the following vote:

Aye 5 - Board Member Leibsohn, Board Member Jon Newman, Board Member Hope Ozer, and Chair Kile.

Nay 1 - Board Member Williams

Absent 1 - Board Member Chambliss

**A. 18-008 Holyoak Variance – 6641 E Ironwood Drive (APN: 174-36-004)
Case No. BA-17-05**

Wendy Riddell, Berry and Riddle, presented for the applicant. She stated that the applicant wants to match the existing wall that exists to the east and west of the property. The applicant would like to secure the property with the wall as it is a safety risk. This property is the only gap in a continuous wall.

At 7:06 the public hearing was opened.

Joe Panter, a neighbor, stated that he has wanted that wall built for 25 years to close the gap. He is in support of the variance request.

Susan Rand, HOA president, stated that the HOA has voted to recommend

approval to the Board of Adjustment. It is a safety concern because a car could drive through this gap. It would be nice if it continued to close the gap. There was discussion that there are areas of view fence where a large wash passes through. Susan Rand stated that the wall is maintained by the HOA.

Walter Binsom, a 39 year resident and member of HOA, stated that he is in favor of the request as long as it matches the walls to the east and west. It should also provide noise mitigation for the owner.

At 7:11 pm the meeting was closed to the public.

Board Member Ozer made a motion for approval of the variance based upon the special circumstances noted in the narrative and that the wall will match the height of the existing walls adjoining it and not to exceed a height of 6' tall. Board Member Leibsohn seconded the motion. All in favor.

The motion was made by Board Member Ozer, seconded by Board Member Leibsohn, to approve the variance request. The motion carried by the following vote:

Aye 6 - Board Member Leibsohn, Board Member Jon Newman, Board Member Hope Ozer, Board Member Williams, and Chair Kile.

Absent 1 - Board Member Chambliss

B. ACTION ITEMS

None

C. CONSENT AGENDA

A. 18-013 Approval of the December 6, 2017 Board of Adjustment Meeting Minutes

A. 17-195 Approval of the April 12, 2017 Board of Adjustment Minutes

A motion was made by Board Member Leibsohn to approve the April 12, 2017 minutes and April 5, 2017 minutes as amended. Seconded by Board Member Newman. The motion carried by the following vote:

Aye 6 - Board Member Leibsohn, Board Member Jon Newman, Board Member Hope Ozer, Board Member Williams, and Chair Kile.

Absent 1 - Board Member Chambliss

D. STAFF REPORT

None.

E. PUBLIC BODY REPORTS

None

F. FUTURE AGENDA ITEMS

G. ADJOURNMENT

A motion was made at 7:15 p.m. by Board Member Williams and seconded by Board Member Kauffman, to adjourn the meeting. The motion carried by the following vote:

Aye 6 - Board Member Leibsohn, Board Member Jon Newman, Board Member Hope Ozer, Board Member Williams, and Chair Kile.

Absent 1 - Board Member Chambliss

Paradise Valley Board of Adjustment

By: _____
Eva Cutro, Secretary