



Town of Paradise Valley

6401 E Lincoln Dr
Paradise Valley, AZ 85253

Minutes

Board of Adjustment

Wednesday, January 8, 2020

5:30 PM

Council Chambers

1. CALL TO ORDER

Chairman Leibsohn called the meeting to order at 5:30p.m.

STAFF MEMBERS PRESENT

Town Attorney Andrew M. Miller
Community Development Director Jeremy Knapp
Senior Planner George Burton

2. ROLL CALL

Present 6 - Boardmember Eric Leibsohn
Boardmember Rick Chambliss
Boardmember Jon Newman
Boardmember Hope Ozer
Boardmember Rohan Sahani
Boardmember Quinn Williams

Absent 1 - Boardmember Emily Kile

3. EXECUTIVE SESSION

None

4. STUDY SESSION ITEMS

None

5. PUBLIC HEARINGS

- A. [20-015](#) Byrnes Variance - 5339 E. San Miguel Ave (APN 172-47-039).
Case No. BA-19-08 (Byrnes Variance) Request by the owners of 5339 E. San Miguel Ave (APN 172-47-039) for a variance from Article XXII of the Town of Paradise Valley Zoning Ordinance to allow retaining walls to exceed the height limits
- George Burton, Senior Planner, presented an overview of the request. He reviewed a history of the site plan, home and other things.

Board Member Ozer asked if the current walls were built before the home. Mr. Burton explained that they were built in conjunction with the house, but were not built according to plan and extends further than the approved 12 inches above the retained material.

Mr. Burton continued his presentation and reviewed the findings in favor and findings opposed. He reiterated that a variance was given for the construction of the wall in 2015 but was not followed during the construction phase. He also added that a certificate of occupancy has not been granted yet.

Board Member Chambliss indicated that he believed their decision should not be swayed since the application was taking place after a mistake had been made rather than prior to the construction process.

A motion was made by Board Member Sahani, seconded by Board Member Chambliss, to adjourn the Study Session.

The motion passed unanimously.

Chairman Leibsohn opened the public hearing portion of the meeting and noted that all those present for the study session were still present for the public hearing.

Andy Burns, applicant, explained that his understanding was that the wall could be 14 feet tall. He noted that the wall was necessary for boulder protection, drainage, and erosion. He added that the mechanical wall they built at the approved eight feet maximum, but he lowered the ground on the back side as low as he could so the pool equipment disappeared behind that same wall rather than leaving the ground at its original height and building an additional six-foot wall to hide the pool equipment. He added that he felt they made the best decisions in respect to keeping the street view and mountain preservation.

Chairman Leibsohn stated he felt that there were special circumstances with this topography and did not feel any significant view corridors were being blocked.

Board Member Ozer noted that it would have been easier to approve if this was all done beforehand but that she was inclined to approve the variance as well.

Board Member Newman asked if the retaining wall has created any safety issues that would affect the subject property.

Mr. Burton responded to his knowledge it has not.

Board Member Newman asked the petitioner if they had a certificate of occupancy.

Mr. Burns replied that he was not aware that they did not have it. He added that they are currently living in the home.
Discussion was made on what the next steps would be and how long the process might be.

Board Member Ozer asked what the legal situation is for the applicant since they are not living in the house legally.

Mr. Burton explained the process and noted that they would be given 30 days to vacate the property.

Mr. Burns indicated the applicant has done their part to submit an encroachment permit for the stairs up to the house that encroached on the right of way and indicated they were simply waiting to get the permit.

Board Member Newman expressed that he felt the applicant should be commended for lowering the wall when it could have been 14 feet high. He clarified that he was in favor of approving the variance.

Chairman Leibsohn closed the public hearing on this Item.

A motion was made by Boardmember Sahani, seconded by Boardmember Newman, to approve Case No. BA-19-08, a request by Andrew Byrnes and Shawna Glazier, property owners of 5339 E. San Miguel Avenue; for a variance from the Zoning Ordinance, Article XXII, Hillside Development Regulations, to allow retaining walls to exceed the height limits.

The variance shall be in compliance with the submitted plans and documents:

- 1. The Zoning Adjustment Case Narrative, prepared by The Construction Zone and dated December 13, 2019;**
- 2. Site Plan & Project Info, Sheet A100, prepared by The Construction Zone and dated November 1, 2019; and**
- 3. Sections & Site Photos, Sheet A400, prepared by The Construction Zone and dated November 1, 2019.**

The motion carried by the following vote:

Aye: 6 - Boardmember Leibsohn, Boardmember Chambliss, Boardmember Newman, Boardmember Ozer, Boardmember Sahani and Boardmember Williams

Absent: 1 - Boardmember Kile

6. ACTION ITEMS

None

7. CONSENT AGENDA**A. [20-016](#) Approval of the October 2, 2019 Board of Adjustment Meeting Minutes**

A motion was made by Boardmember Chambliss, seconded by Boardmember Sahani, to The motion carried by the following vote: Approve the October 2, 2019 Meeting Minutes.

Aye: 6 - Boardmember Leibsohn, Boardmember Chambliss, Boardmember Newman, Boardmember Ozer, Boardmember Sahani and Boardmember Williams

Absent: 1 - Boardmember Kile

8. STAFF REPORTS

None

9. PUBLIC BODY REPORTS

None

10. FUTURE AGENDA ITEMS

Mr. Knapp indicated there were no agenda items for the next regularly scheduled meeting in February. He added that if they had any agenda items they could be put on the March 4, 2020 meeting agenda.

11. ADJOURNMENT

A motion was made by Boardmember Ozer at 6:11p.m. seconded by Boardmember Chambliss, to adjourn the meeting. The motion carried by the following vote:

Aye: 6 - Boardmember Leibsohn, Boardmember Chambliss, Boardmember Newman, Boardmember Ozer, Boardmember Sahani and Boardmember Williams

Absent: 1 - Boardmember Kile

Town of Paradise Valley Board of Adjustment

By: _____
Jeremy Knapp, Secretary