



Town of Paradise Valley

6401 E Lincoln Dr
Paradise Valley, AZ 85253

Minutes - Draft

Board of Adjustment

Wednesday, November 4, 2020

5:30 PM

Council Chambers

1. CALL TO ORDER

The meeting was called to order at 5:30 pm.

2. ROLL CALL

Present 6 - Boardmember Rick Chambliss
Boardmember Emily Kile
Boardmember Rohan Sahani
Boardmember Quinn Williams
Boardmember Jon Newman
Boardmember Hope Ozer

3. EXECUTIVE SESSION

5. PUBLIC HEARINGS

A. [20-422](#)

Case No. BA-20-05 (Rattai Variance)
6950 E. Orange Blossom Lane (APN:173-21-058)

Loras Rauch, Special Projects Planner, introduced the application. The variance request is to allow a new single-family residence to encroach into one of the rear setbacks; with 675 square feet of the house encroaching into the rear setback. The proposed house will have a 10-foot rear yard setback rather than a 35-foot rear yard setback. She provided background on the item and site photos. She reviewed the Applicants findings in favor of the variance which included similar lots in the surrounding area which have homes that encroach on the setbacks. She presented findings in opposition to the variance which included a home on an adjacent property built in 2018 that maintained all the required setbacks. She also noted that staff received three letters of opposition. Special Projects Planner Rauch also read into the record a fourth letter against the variance which was received the afternoon of the meeting.

Ashly Marsh from Tiffany and Bosco, representing the property owner, stated the property was approximately a half acre which abuts a ten-foot-wide alley on the side. She noted the lot had been vacant for approximately 12 years and the current owners bought the property in 2018 with the intent of building their dream home. Ms. Marsh pointed out the odd shape of the lot created a dual rear setback which did not allow for a large piece of buildable area. She clarified that the setbacks created a hardship on the lot. She explained that they believed this proposal met the variance test and noted they were not asking for any other variances from the zoning ordinance.

Board Member Hope Ozer asked if Mr. Rattai was in a business in Edmonton, Canada.

Ms. Marsh replied that he no longer was and was focusing on his business here in Phoenix.

Board Member Ozer inquired if the applicant planned to live in the home long term or only two years to avoid taxes.

Ms. Marsh responded that this lot was intended to be his personal permanent resident.

Board Member Emily Kile asked if there were any variances in the previous permit that was issued for the property.

Ms. Marsh explained there was not a variance for the setback at that time since the eastern perimeter was interpreted to only need a 10-foot setback at that time.

Board Member Kile asked if this was the only lot that required three 35-foot setbacks.

Ms. Marsh clarified that it was not the only lot with 35-foot setbacks but was the narrowest lot that was required to do so. She noted that when it was originally platted in 1960, she did not believe the three 35-foot setbacks were intended and that they were uniquely intrusive on this particular lot.

Special Projects Planner Rauch commented the way the four subdivisions in the area were platted created a number of double frontage lots and approximately a dozen lots with two rear yards.

Board Member Kile inquired if the architect looked at either shrinking the home size or repositioning it.

Justin Novak, Project Architect, explained that he was given information from the town prior to creating his design that showed only a 10-foot setback on the east side. He added that it was not until they came back with a developed site plan that they were informed that the setback was 35-feet on the east side.

Board Member Kile asked if he had a chance to investigate other options after finding out about the three 35-foot setbacks.

Mr. Novak replied they could re-design the home, but it would require the home to no longer face the street and would be more intrusive to the neighbor on the west.

Board Member Rohan Sahani inquired if there had been any letters in support of the variance.

Special Projects Planner Rauch indicated there was not.

Kathleen Clifford, 7028 East Balfour Road, noted that a photo of their home was used as an example of a similar lot but did not believe that was accurate since it was based on aerial footage and their home had large eaves and overhangs which did not count toward the setbacks of the actual house. She added that information regarding the setbacks was readily found online. She indicated she was offended that the report from Tiffany & Bosco identified the subdivision as dense when she believed the three subdivisions were supposed to be low density. She pointed out that the home being proposed was at least 600 feet larger than any other home in the three subdivisions. She clarified that she felt they should build something that conforms to the requirements clearly laid out by the Town. She pointed out that the elevation along the back of the home may not be visible from the street but would be visible from her home.

Mr. Clifford, 7028 East Balfour Road, suggested the applicant was trying to put too much onto the lot. He noted that when they remodeled their home, they were not able to do everything they wanted and had to comply with the rules. He noted his detailed comments were included in the letter he sent. He summarized that he did not feel there was hardship since there were designs that would fit within the building envelope. He clarified that he welcomed development on the lot but was opposed to the variance.

Ms. Marsh indicated they had sent out over 315 notification letters for this variance request. She added that they only received three real opposition letters, two of which came from the same household. She stated this was an opportunity to make a vacant lot a home by providing relief on the setback issue. She shared that there had been opinions that the setback located to the East should only be 10-feet rather than 35-feet. She added that the home still fit within the lot coverage standards and the question was more about allowing them to position the home on the unique lot, so it made sense and was not intrusive to the neighbors.

Board Member Rick Chambliss pointed out that when they are considering variances, they do not look at other lots but only consider the lot before them. He pointed out that a smaller home could be built on the lot and not need a variance.

Ms. Marsh agreed that was true. She noted that the home still came under the maximum lot coverage.

Board Member Kile indicated she had not heard of any attempt to redesign the home to fit it within the existing building envelope.

Ms. Marsh replied that they had considered modifying the home, but it created an odd shaped home. She added that if a redesign was required there would be no front façade beside the garage.

Mr. Novak commented that they looked at other options but believed it became detrimental to the fabric of the neighborhood in that only the garage was seen from the street and that the rest of the home would not be fronting the street.

Chairman Williams closed the public hearing.

Board Member Ozer motioned for denial of Case No. BA-20-05 a request by Sean and Monica Rattai of Magistrate Homes LLP for variance from Zoning Ordinance Article 10 of the Zoning Ordinance to allow a new signal family residence to approach into the rear yard setback.

Board Member Chambliss seconded the motion.

A motion was made by Board Member Ozer, seconded by Board Member Chambliss, to deny the variance request. The motion carried by the following vote:

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

B. [20-419](#)

Case No. BA-20-06 (Capstone Properties Variance)
5205 E. Lincoln Drive (APN 169-27-029)

George Burton, Senior Planner, presented an overview of the variance request to allow change in use for title agency and luxury real estate agency as tenants. The new uses will be located in the two existing buildings that adjoin Lincoln Drive. He provided an overview of the site and its location as well as a brief history of the lot. He clarified the scope of the request which included the use of buildings A and C as well as some site photos. He pointed out that the Board may consider a change in the use on a nonconforming property if they determine that the change in use is not more intense. He presented the 9 criteria that determine if a use was more intense in relation to the proposed/new uses.

Mr. Burton noted that the Town Engineer and the third-party reviewer had concerns about the parking lot layout even though the site met the parking number requirement. He noted that if the request is approved, a stipulation should be added which requires Town Engineer approval on an updated parking layout and the addition of another ADA parking space in front of Building B.

Mr. Burton continued to review the criteria for determining the intensity of the use and shared that the applicant had fewer employees on site, reduced hours of operation, potential decreased noise level, and an elimination of the use of large trucks on the site. He pointed out there were no proposed changes to the exterior lighting, no increase in the emission of dust, and no increase in building size.

Mr. Burton stated he received a letter in opposition of the variance request the day of the meeting. He read the letter into the record.

Board Member Kile remarked that she did not believe the proposed use added to the intensity and met the criteria for the variance.

Mr. Burton pointed out the applicant proposed to use the existing sign location, which is not part of the variance request.

Heather Duke, Snell & Wilmer Representative, provided an overview of the

property noting there were 27 parking spaces, a wash on the site, and good vehicle access. She identified that there are 12-foot-tall oleanders on east side of the property, a masonry wall on the south, and more landscaping on the west boundary of the property.

Ms. Duke reviewed the history of the site and provided details on the proposed uses for both building A and C. She indicated building A was to be a showcase space to promote luxury homes in Paradise Valley and surrounding areas. She added that Building C would be a premiere title agency with title research services.

Ms. Duke presented additional site photos which included views of the wash and pedestrian bridge as well as the bridged driveway. She explained that they worked with both the Town Engineer and a third-party review regarding the traffic and parking study. She pointed out that the study indicated they overestimated the trips for the site and still came in under the previous use.

Ms. Duke reiterated that the proposed uses included no increase in traffic, no increase in parking, no increase in on-site employees, hours of operation remain relatively similar, no increase in noise, no greater light emitted from property, no increase in dust, no increase in building size, and a decrease in larger vehicles on the site.

Board Member Chambliss asked if the Karas Group would not be conducting real-estate transactions at the location.

Ms. Duke replied that was correct.

Board Member Chambliss recommended a stipulation be included so they could not change their mind down the road and begin conducting real-estate transactions on site.

Board Member Kile commented that she was not as concerned about ensuring there would never be real-estate transactions since she did not believe it would increase the amount of activity at the site. She clarified that she would prefer to not have that included as a stipulation.

Ms. Duke noted they were determining trip generation based off of a show room use rather than office use which had a higher traffic number than a typical office.

Phil McClanahan, Property Owner, stated that the lighting and the signage was not addressed. He noted that the previous lights and signs did not comply, and they have reduced the light and size of the signage to keep with the Towns profile.

Andrew Miller, Town Attorney, clarified that this could be seen as a similar use or even a less intense use but was not the same use. He added that it was also requires a variance since it was a unique section of the Town Code that allows the Board to allow a change in a non-conforming use as long as Board determined that the use is less intense.

Janelle Schick inquired if there was a visual of both the existing parking as well as the proposed parking layout.

Mr. Kohler showed images of the existing and proposed parking layout.

Ms. Schick expressed concern that they would have to remove some of the oleanders on the east side to create additional spaces which would eliminate some of the screening from the home adjacent to the property.

Mr. McClanahan replied that they would not be infringing on the oleanders. He clarified that they would not need to be cut back or removed.

Bill Selby, Civtec Traffic Engineer, he pointed out that these were optional parking spots that may not be used at all and were not needed to meet the parking spot. He reiterated that they would not have to adjust any of the plant life in that area to allow parking in that area.

Ms. Schick asked if the resident on the east side of the property was aware of this.

Ms. Duke responded they complied with all of the Town requirements for notification and that the information was public record and did not receive any communication from surrounding properties in response.

Ms. Schick stated she did not feel they saw those and understood. She added that she would feel better if they let the neighbors know or if they eliminated the parking on the east side near the oleanders completely.

Ms. Duke pointed out that the proposed uses would be decreasing the amount of deliveries and large vehicles on the site and so she believed this was a more beneficial proposal for those adjacent to the site.

Jill Keimach, Town Manager, commented that the parking plan needed to be approved by the Town Engineer and so the Board would not be voting on the parking plan but if the use was less intense or not.

Board Member Sahani motioned to approve the variance request subject to the stipulations in the action report, including the clarification that real estate transactions may be allowed.

A motion was made by Board Member Sahani, seconded by Board Member Ozer, to approve the variance request subject to the stipulations in the action report, including the clarification that real estate transactions may be allowed. The motion carried by the following vote:

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

4. STUDY SESSION ITEMS

- A. [20-424](#) Discussion of Changes to Rules of Procedure for the Board of Adjustment

Mr. Miller shared a presentation on the Board of Adjustment rules of procedure changes and the council approved training handbook for boards and commissions. He shared that the goal of the training handbook was to provide thorough and consistent training to ensure continuity for appointed volunteers on the Board of Adjustment, Planning Commission, and Hillside Committee and was approved by Council in June 2020.

Mr. Miller explained that a working group was put together to determine if and what types of changes needed to be made to the existing rules and procedures of the Commission and Board of Adjustment should be made and indicated that there was a desire to make the rules and procedures consistent between the three groups.

Mr. Miller continued his presentation and pointed out the changes made to rules which included additional information regarding deadlines for submitting applicant and general public materials so that Staff, the Board, and public had adequate time to review the information. He shared that changes were made regarding speaking times in order to have more consistency between the three groups and further clarification was made on timing requirements for motions to reconsider a motion or action.

Mr. Miller indicated that on-going education was important for all Boards, Commissions, and Committees especially for land-use volunteers, which is why they have decided it would be beneficial to offer an annual training for the land use boards collectively. He added that a training was to be offered on November 12, 2020 and that Staff encouraged all Board members to participate

6. ACTION ITEMS

7. CONSENT AGENDA

8. STAFF REPORTS

Senior Planner Burton noted the upcoming Board and Commission seminar and asked the Board Members to contact him if they would like to attend the seminar.

9. PUBLIC BODY REPORTS

Board Member Kile asked that Staff inform Council that it would be useful to have an architect on the Board and to keep that in mind when they are considering someone for new appointment.

10. FUTURE AGENDA ITEMS

Mr. Burton stated there were no items scheduled for their December meeting.

Mr. Miller remarked that they also had a meeting scheduled for Wednesday, January 6, 2021.

11. ADJOURNMENT

This meeting was adjourned at 8:03 pm.

Aye: 5 - Boardmember Chambliss, Boardmember Kile, Boardmember Sahani, Boardmember Williams and Boardmember Ozer

Absent: 1 - Boardmember Newman