



Town of Paradise Valley

6401 E Lincoln Dr
Paradise Valley, AZ 85253

Minutes - Final

Board of Adjustment

Chair Quinn Williams
Boardmember Robert Brown
Boardmember Priti Kaur
Boardmember Leibsohn
Boardmember Jon Newman
Boardmember Hope Ozer
Boardmember Rohan Sahani

Wednesday, October 6, 2021

5:30 PM

Council Chambers

1. CALL TO ORDER

2. ROLL CALL

Present 4 - Boardmember Priti Kaur
Boardmember Hope Ozer
Boardmember Rohan Sahani
Chairperson Quinn Williams

Absent 2 - Boardmember Robert Brown
Boardmember Jon Newman

3. EXECUTIVE SESSION

A motion was made by Chairperson Williams, seconded by Board Member Ozer, to convene into executive session. The motion carried by a vote of 5 to 0.

Board Member Kile - Yes

Board Member Sahani - Yes

Board Member Ozer - Yes

Board Member Kaur - Yes

Chair Williams - Yes

4. PUBLIC HEARINGS

- A.** [21-312](#) Baiaomonte Variance - 5740 E Via Los Ranchos (APN 168-57-013)
Motion to Reconsider Approval of Pickleball Court/Court Light Setback
Variance and, if Motion to Reconsider passes, Determination of Variance
Request Regarding Pickleball Court/Court Light Setback
Case No. BA-21-06

Board Member Emily Kile motioned to reconsider Case No. BA-21-06 with regard to the pickleball court and the light fixture to encroach into the setbacks.

Board Member Hope Ozer seconded the motion.

Chairperson Williams indicated he was against reconsidering the motion since the basis of the request for reconsideration came from a neighbor who participated in the discussion on the variance when the decision was made.

Board Member Kile noted that Zoom meetings did not accurately reflect their normal meetings where they did not have to worry about people's ability to participate. She noted that the participant may not have been able to fully express their concerns at the previous meeting.

The motion failed a vote of 4 to 1:

Board Member Kile - Yes

Board Member Sahani - No

Board Member Ozer - No

Board Member Kaur - No

Chair Williams - No

B. [21-308](#)

Baiamonte Variance - 5740 E Via Los Ranchos (APN 168-57-013)
Continued Variance Request for House Addition to Encroach into East Side Setback
Case No. BA-21-06

George Burton, Senior Planner, reviewed the history of the project including actions taken at the September 1, 2021 Board meeting which denied the garage addition setback encroachment and approved the pickleball court and court light setback encroachment. He shared that they also took action to continue the variance request for the bedroom/hallway addition setback encroachment which they will discuss this evening. He noted that the applicant has since modified the bedroom/hallway addition by reducing the setback from the east property line as well as the overall square footage of the encroachment in the setback area.

Mr. Burton reviewed the scope of the request for setback encroachment (with proposed setbacks of 14 feet 6 inches and 17 feet from the east side property line instead of the required 20 foot setback). He shared elevation plans and photos of the site. He provided findings in favor and findings

opposed to the proposed variance. He indicated they had received one letter of support for the variance and one letter in opposition.

Michael Baiamonte, Applicant, remarked that they still preferred the original proposal but felt that moving the addition further back toward the pool was a compromise that significantly reduced the encroachment.

Board Member Rohan Sahani confirmed that the proposal had gone from 200 square feet of encroachment to the current proposal of 40 square feet.

Chairperson Williams opened the meeting up for public comment.

Sean McCarron commented that he objected to all encroachments. He noted that he had recently applied for a 15-foot setback for a pool house but were simply told they had other location options. He noted the proposed encroachment would be an eye sore and there were other reconfiguration options for the house without encroachments.

Board Member Ozer pointed out that none of their rulings set precedence for future rulings. She expressed that she felt the property has enough room to accommodate the proposed improvement and believed the variance should be denied.

Chairperson Williams expressed that the problems with the wash and the configuration of the lot created a hardship that he felt merited granting the variance.

Board Member Sahani agreed that their rulings did not set a precedence and indicated he was in favor of granting the variance.

Board Member Kile acknowledged the lot had a lot of challenges but did not feel a variance should be granted.

Chairperson Williams motioned to approve the variance for BA-21-06 with the submitted plans and documents and finds there are special circumstances applicable to this lot that may not be applicable to other cases they have looked at.

Board Member Sahani seconded the motion.

The motion failed by the following vote:

Board Member Kile - No

Board Member Sahani - Yes

Board Member Ozer - No

Board Member Kaur - No

Chair Williams - Yes

Board Member Ozer made a motion to deny the variance request for the bedroom setback encroachment. The motion was seconded by Board Member Kile and the motion passed a vote of 3 to 2:

Board Member Kile - Yes

Board Member Sahani - No

Board Member Ozer - Yes

Board Member Kaur - Yes

Chair Williams - No

C. [21-314](#)

Thomas Residence Variance - 5301 E Paradise Canyon Road (APN 169-06-018)

A request to allow nonconforming portions of the residence (raised roof and building setbacks) to remain as modified. Case No. BA-21-08

Loras Rauch, Special Projects Planner, explained that the request was for a variance to a reconstructed roof on an existing nonconforming portion of the primary residence which altered the height from 11 feet to 14 feet and 2 inches. She noted the previous existing nonconformance was the side yard setback of 13 feet and 6 inches and 19 feet and 6 inches where 20 feet is required. She provided additional background on the lot and noted that the property was adjacent to the Paradise Valley Land Trust and had a slope of 11%. She shared site photos and pointed out the raised pitched roof was done in 2020 without Town approval. She listed sites the applicant submitted as comparable lots. She indicated that staff's recommendation was for denial since they did not believe the request met the variance and that the hardship was a result of the applicant neglecting to obtain permits from the Town.

Boardmember Kile expressed concern for when people come to the Board of Adjustment after the changes were already made.

Boardmember Ozer remarked that any contractor should be aware they need to get permits and inspections on everything.

Edward Chavez, Architect and Owner's Representative, apologized for not getting the proper permits. He noted the property was smaller than other homes in the area and was originally constructed in the 70's under Maricopa County regulations. He pointed out the structure complied with most of the rules except

for the two encroachments. He indicated they may reduce the height of the southwest wing but would like the original footprint of the home to stay in place. He noted that the neighbor who originally reported them was only concerned about following proper grading and drainage, which they were.

Mr. Chavez commented that the variances would not be detrimental to the neighborhood and that the owner was ready to rectify their previous error by going through all the proper permitting processes moving forward. He indicated that they have had the idea to reduce the 132 square feet of encroachment down to 11 square feet.

Chairperson Williams inquired if they could alleviate the encroachment on the setback.

Mr. Chavez replied that they could alleviate the height encroachment on the west. He noted that the setback on the east could be approved administratively since there was less than a 10% encroachment.

Chairperson Williams asked if alleviating the height encroachment on the west would eliminate the need for a variance.

Ms. Rauch replied that it would not since the rest of the home was still non-conforming. She noted the applicant still need to go to the Hillside Building Committee and the building permit process.

Chairperson Williams opened the meeting for public comment. No public comments were offered.

Boardmember Kile pointed out that the applicant must meet all six variance criteria. She understood that this was a difficult situation, but she did not feel that it met the criteria for a variance.

Boardmember Kile motioned to deny the request for a variance on this property.

Boardmember Sahani seconded the motion.

The motion carried by the following vote:

Board Member Kile - Yes

Board Member Sahani - Yes

Board Member Ozer - Yes

Board Member Kaur - Yes

Chair Williams - Yes

5. STUDY SESSION ITEMS

- A. [21-313](#) Board of Adjustment Open Meeting Law and Conflict of Interest Orientation
- Town Attorney Andrew McGuire presented the Open Meeting Law and Conflict of Interest Orientation to the Board.

Andrew McGuire, Town Attorney, presented a power point presentation regarding open meeting law. He pointed out the core concept of the open meeting law is that things are done in public. He noted that there were about 9 topics that could be discussed in private closed sessions including personnel, legal advice, purchase of real property, and confidential records among other things. He clarified that a meeting occurs any time a quorum of the public body discusses, proposes, or takes legal action. He noted some open meeting law pitfalls such as replying to an email or sending an email to all members of your public board, posting on social media when it includes other members of your public board, and attending and discussing at other public meetings that are not noticed as your own when a quorum of your public board is present, among other things. He additionally pointed out that meetings needed to be noticed 24 hours in advanced except for actual emergencies. He reviewed what executive sessions were and what authorized topics could be discussed at them. He pointed out that actions taken during an open meeting law violation were null and void.

Mr. McGuire continued his presentation reviewing information regarding conflicts of interest. He instructed the board to inform staff if they ever have family members coming before the board. He pointed out other conflicts such as a pecuniary conflict. He asked that member disclose any conflicts of interests in the official records of the public agency, recuse them self from discussion and decision making on the matter, and refer to the Town Attorney if they have any questions to avoid recklessness or negligence.

6. ACTION ITEMS

7. CONSENT AGENDA

- A. [21-006](#) Approval of the September 1, 2021 Board of Adjustment Meeting Minutes
- Board Member Ozer made a motion to approve the September 1, 2021 meeting minutes. The motion was seconded by Chair Williams and the motion passed a vote of 5 to 0:

Board Member Kile - Yes

Board Member Sahani - Yes

Board Member Ozer - Yes

Board Member Kaur - Yes

Chair Williams - Yes

8. STAFF REPORTS

None.

9. PUBLIC BODY REPORTS

None.

10. FUTURE AGENDA ITEMS

Mr. Burton reported that the Board had two items for the November 6, 2021, meeting. He indicated they were both hillside lots: one application for a new home and the other for solar panels on an existing home.

11. ADJOURNMENT

Board Member Ozer made a motion to adjourn the meeting at 7:26 pm. The motion was seconded by Board Member Sahani and the motion passed a vote of 5 to 0:

Board Member Kile - Yes

Board Member Sahani - Yes

Board Member Ozer - Yes

Board Member Kaur - Yes

Chair Williams - Yes

Approved

Town of Paradise Valley Board of Adjustment

By: George Burton
George Burton, Secretary