

Meeting Minutes

City of Prescott Board of Adjustment Public Hearing Thursday, July 20, 2006 – 9:00 AM

MEMBERS PRESENT:

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

MEMBERS ABSENT:

Bill Warren

OTHERS PRESENT:

George Worley, Assistant Director,
Community Development
Gary Kidd, City Attorney
Steve Gaber, Community Planner
Bob Bell, Council Liaison
Bob Luzius, Councilman
Kathy Dudek, Recording Secretary

PLEDGE OF ALLEGIANCE AND MOMENT OF SILENCE

I. CALL TO ORDER

Chairman Fuchs called the public hearing to order at 9:00 AM.

II. ATTENDANCE

The proceedings of this hearing were recorded and a tape is available in the Planning and Zoning Division for playback. A list of members of the public in attendance is also on file in the Community Development Department.

III. REGULAR AGENDA

- 1. Approve the minutes** of the 06/15/06 public hearing.

Mr. Famas, **MOTION: to approve the minutes** of the June 15, 2006 hearing. Ms. Forquer, 2nd. **Vote: 4-0-2.** (Abstention due to absence: Kayn, Klein).

- 2. CUP06-005, 141 S. Mt. Vernon Avenue.** APN: 110-01-058 and totaling ± 0.18 acre. *LDC* Section 2.3. Request conditional use permit for a guest house over garage. Owner/Applicant is Gregory Hague. Community Planner is Steve Gaber.

Mr. Gaber reviewed the staff report and indicated:

- the garage will be converted to a guest house with the addition of a dormer to the existing footprint;
- Prescott Preservation Commission approved the request in May;

- the project is compatible with the neighborhood, and no adverse impacts will occur; and,
- A neighbor, Mr. Steve Rogers, is in opposition to this project.

Board members queried and commented on:

- alley parking requirements;
- similar projects in the neighborhood;
- off-street, alley improvements; and,
- change in building height.

Mr. Gregory Hague, owner, 141 S. Mt. Vernon Avenue, indicated:

- the addition will be used primarily by his 3 sons; and,
- there is a similar guest house two houses away.

Mr. Steven Rogers [no signature on record], 132 S. Virginia, opposes the project and stated:

- he opposes the increased density; and,
- he is opposed to the three windows on the alley side that will destroy his privacy.

Chairman Fuchs asked Mr. Rogers if he has asked Mr. Hague to change the window placement. (Mr. Rogers indicated he just returned to town and objects to another 20-foot building on the alley).

Mr. John Dunatov, 7950 Redfield, Scottsdale, contractor, indicated that the windows were placed to let in light and that skylights cannot be used successfully in the space available.

City Attorney Kidd, when asked, clarified what a conditional use permit allows.

Mr. Rogers stated there are no other 2-story buildings with windows facing the alley and that there are skylights in the Camerons' garage.

Mr. Kayn, **MOTION: to approve CUP06-005** for a detached guest house at 141 S. Mt. Vernon Avenue, subject to the guest house being constructed in substantial conformance to the site plan dated May 7, 2006. Mr. Famas, 2nd. **Vote: 6-0.**

3. **V06-004, 1477 Village Trail.** APN: 107-07-040 and totaling ± 0.23 acre. Zoning is Single-Family 9 (SF-9). LDC Section 3.6.3E.3. Request conditional use permit for reduction in rear yard setback. Owner/applicant is McCarthy Family Trust. Community Planner is Steve Gaber. (*Continued from June 15, 2006*).

Mr. Gaber reviewed the staff report and indicated:

- the home was constructed in 2002, and the applicant is the second owner;
- the request asks for a 14-foot rear setback where 25-feet is required;
- from the Code aspect, the variance could not be approved;
- there are no objections from the neighboring property owners;
- the topography is not different from other lots in the subdivision; and,
- significant health issues limit the applicant's ability to enjoy his property.

Board members queried and commented on:

- the difference between a sunroom, covered patio, or addition;
- the circumstances under which zoning codes can be mitigated by variances;
- the land requiring a variance, not a person's health; and
- the "letter of the law" vs. the "spirit of the law".

Mr. Roger McCarthy, owner, 1477 Village Trail, explained his request:

- he moved in as the second owner in September [2005];
- he has a health condition [Lambert-Eaton Myasthenia Syndrome];
- he is allergic to mosquitos, bees, etc.; and,
- his diagnosis from the Mayo Clinic is irreversible.

City Attorney Kidd clarified the variance procedure and indicated he knows of no other remedies for Mr. McCarthy to pursue. Council approved the subdivision; consequently, once approved, Council cannot modify the requirements as the criteria is fixed by both Council and state statute.

Board and staff discussed:

- temporary structures;
- accessory buildings; and,
- attached vs. detached project design.

Mrs. Barbara McCarthy, wife of applicant, 1477 Village Trail, described the topography of the lot and her husband's allergy to bees.

Mr. Tom Supinski, neighbor, 1465 Village Trail, described the wild animals and indicated he supports the McCarthy's request.

Mrs. McCarthy described her measuring of the property and indicated that her measurements may be in error.

Mr. Brandon Barclay, 951 E. Flora Lane [? no signature on record], contractor, asked about totally detaching the structure.

Mr. Kayn, **MOTION: to deny V06-004**, 1477 Village Trail. Mr. Klein, 2nd.
Vote: 6-0.

IV. REVIEW ITEMS

4. **V04-013, 2073 Meadowbrook Rd.** APN: 108-16-014. *LDC* Section 3.4.3. Zoning is Single-Family 9 (SF-9). Request variance to reduce rear yard setback. Owner is M. Lenihan. Applicant/Agent is M. Peugh.

BOA Approved 01/20/05 with 1 condition: That the proposed single-family home is built in substantial conformance to the site plan dated 12-14-04.

A letter was received from the applicant/agent M. Peugh dated July 7, 2006. Mr. Peugh is requesting a time extension of 18 months (to January 19, 2008). Staff supports this request. (A copy of the letter has been placed in this month's meeting packet.)

Mr. Worley reviewed the letter submitted by Mr. Peugh, applicant/agent for the owner. Staff supports the request for an extension.

Mr. Mabarak, **MOTION: to approve the request for V04-013**, an extension of 18 months expiring on January 19, 2008. Mr. Famas, 2nd. **Vote: 6-0.**

5. **V04-014, 818 W. Gurley Street.** APN: 113-11-065A. LDC Section 4.7.3 & 6.2.3. Request variance to allow reduction of side and rear setbacks and a reduction in required parking. Owner is R. Morse. Applicant/Agent is M. Peugh.
BOA Approved 01/20/05 with 3 conditions: A) Side yard encroachment is not granted and must be removed; B) Parking requirement is reduced to 5 total parking spaces and is applicable only if structure is used for a maximum of 12 residents plus 2 staff members and only if used as transitional housing; and, C) Rear yard setback of 5'8" is approved.
Finald 02/03/06.

6. **V04-010, 306 S. Marina Street.** APN: 109-04-001. Variance to reduce side and rear setbacks for a combination garage/apartment.
BOA Approved 12-16-04 with 1 condition: That the proposed garage/apartment is built in substantial conformance to the site plan dated October 8, 2004.

Staff is requesting a one-month continuance to the next Board of Adjustment hearing on August 17, 2006 at 9 AM. (Refer to e-mail from Greg Heiland dated July 11, 2006).

Mr. Worley indicated that staff supports the request for the one-month extension.

Mr. Famas, **MOTION: to approve** the request for a one-month extension of V04-010, to be continued to the August 17, 2006 Public Hearing at 9:00 AM.

V. SUMMARY OF RECENT OR CURRENT EVENTS

Mr. Kayn presented the Board with a "Be Watersmart" sponge that is being distributed by the Prescott Water Conservation Committee.

VI. ADJOURNMENT

Chairman Fuchs adjourned the hearing at 10:16 AM.

E. Calvin Fuchs, Chairman