



**MINUTES**  
**BOARD OF ADJUSTMENT**  
**Thursday, February 21, 2008 - 9:00 AM**  
**City Council Chambers**  
**201 S. Cortez Street, Prescott, AZ**

**I. CALL TO ORDER**

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

**II. ATTENDANCE**

**MEMBERS PRESENT**

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

**OTHERS PRESENT**

George Worley, Assistant Community Development Director  
Matt Podracky, Senior Assistant City Attorney  
Dick Mastin, Development Services Manager  
Steve Gaber, Community Planner  
Wendell Hardin, Community Planner  
Kathy Dudek, Recording Secretary

**III. REGULAR AGENDA**

1. **Approve the minutes** of the January 17, 2008 public hearing.

Mr. Fuchs, **MOTION: to approve the minutes** of the January 17, 2008 public hearing. Ms. Forquer, 2<sup>nd</sup>. **Vote: 7-0.**

2. **V07-010, 2309 Country Park Drive.** APN: 116-01-053 and totaling ± 2.2 acres. Zoning is Single-Family 35 (SF-35). LDC Section 2.5.2.B. Request variance to allow an additional 2,800 SF accessory building. Owner/applicant is Emmons Investments. Community Planner is Steve Gaber (928) 777-1206. (*Continued from 01-17-08*).

Mr. Gaber reviewed the staff report and indicated:

- this request is a continuance from December, 2007, when the Board requested additional information;
- the applicant has provided elevations, driveways, landscaping, parking calculations and square footage;
- the existing residence is located at the crown of the hill and would allow for 2,004 square feet of accessory structures;
- the existing accessory structure is calculated at 2,003 square feet;
- the existing structure, located in the north setback area, was built after the

- garage and could be dismantled as it violates setback requirements;
- the new proposal calls out an additional 2,800 square foot accessory structure;
- if approved, there will be ± 6,000 square feet of accessory structures on the property;
- if approved, the newly-proposed structure is to keep the cars and related items organized and under cover;
- the owner is trying not to have a nuisance factor;
- the public hearing notice generated both support and opposition to the proposal, with the opposition citing the additional structure's potential of overwhelming the neighborhood;
- the Emmons' have looked at "softening" the structure by proposing to use stucco on the exterior;
- after the last hearing, the three garage doors have been reduced to buffer the structure;
- the existing utility pole is problematic;
- the view from Country Park will be buffered; and,
- color chips were provided for the Board members, with the Emmons' having had discussions about the proposed color with the neighbors.

Board members queried and discussed:

- the reason for the two different finishes, slump and stucco [Mr. Gaber: the exterior will look very similar];
- both buildings being painted the same color [Mr. Gaber: correct];
- the *Land Development Code (LDC)* specification that the accessory structure is limited to 50% of the primary structure [Mr. Gaber: the assumption that when the *LDC* was being created, it was to replace the old code where accessory buildings overwhelm the lot. In the typical situation of smaller property, the rule fits. It is my opinion that when 2+ acres occur, the requirement becomes less clear. The large property owner will have more vehicles, RVs, horses, barns, etc.];
- the existing 900 square foot canopy as part of the existing accessory use [Mr. Gaber: it wasn't on the previous plans];
- if the existing 900 square foot canopy violates the *LDC* [Mr. Gaber: it would exceed the maximum and an adjustment might be appropriate]; and,
- does the canopy structure have to be taken down [Mr. Gaber: in this application, the Emmons' have not requested that the canopy be a part of this variance request].

Mr. Fuchs raised the question of the free-standing 900 square foot structure. Mr. Gaber proposed that requiring the 900 square foot structure to be demolished might solve the problem.

Mr. Jim Musgrove, attorney for the applicant, 1135 Iron Springs Road, stated that this canopy is just that, a free-standing structure that is put together with nuts and bolts. My client is going to take it down if it is desired by this illustrious Board. If that's what you want, that's what my client is going to do. But it is not tied to the other buildings. So that's not the building that you have to be concerned with.

Questions to the staff included:

- how does staff determine what requires a variance or a rezoning [Mr. Worley: staff examines the compatibility of a rezoning in relationship to the surroundings, adverse impacts, uses permitted, access to infrastructure, etc. This was determined to be a use-related issue of setbacks, building height, etc. Variances are indicated to handle dimensional issues, *i.e.*, not enough parking, setbacks, lot coverage, etc.];
- how is an accessory building defined [Mr. Worley: it is a use for a building that is secondary to the principal use, *i.e.*, the house];
- if this were a business, how would it be looked at [Mr. Worley: as a commercial use that is not appropriate to the zoning district];
- what happens if the owner sells the property, can the usage change [Mr. Worley: a variance is a permanent correction to the problem, and it is assumed it will last the life of whatever it is applied to, the building or the property];
- what does the City do to ascertain, on the sale of the property, that the use of these buildings doesn't become commercial [Mr. Worley: if a neighbor complained, the City would investigate the use and take appropriate corrective action];
- what other instances of variances being granted where accessory structures are larger than the primary residence [Mr. Gaber: there are several large accessory buildings in the Jack Drive neighborhood on large acreage, including the Colorado River Raft facility with huge amounts of equipment. Typically on the smaller lot situation, this would not reach the Board. The applicant would be told that it would be very difficult to approve. This request does make it because there is significant scope]; and,
- a large property's accessory structure has less impact than a large accessory structure on a small property, and that should be considered when a variance request is submitted; and,
- the 200-foot driveway.

Mr. Musgrove indicated that the existing building is constructed of slump block. The new building was designed to be slump block; however, at the December meeting, his client has determined that the new building would be stucco because slump block was not satisfactory to the Board. It was suggested that the color was too boring, too orange, etc.

Mr. Kayn indicated that the Board does not have jurisdiction on the color, look, or materials of the building.

Mr. Fuchs wanted to make sure that the client is willing to take down the canopy [Mr. Musgrove: that's correct]. That would bring the existing accessory building into compliance with the *LDC* [Mr. Musgrove: that's my understanding from Mr. Gaber]. Once that occurs, then the only thing that we have to consider is whether a variance should be granted for the new accessory building [Mr. Musgrove: that's correct. We are not asking for a variance as to the existing canopy. My client would ask that if the Board were going to consider the granting of the variance for the new accessory building, and if it is conditioned upon the removal of the canopy, then we would ask that the removal of the canopy be

delayed until such time as this new building is constructed. This will enable the equipment and parts that are being stored under the canopy to be moved into the new accessory building].

Mr. Mabarak asked if the two long car carriers are going to be moved into the new building.

Mr. Chauvin Emmons, owner, 2309 Country Park Drive, indicated initially the building would be 10' tall. In listening to the neighbors input, the building is being raised to 12'. The car carriers will be placed inside the building. There will be trees down Ewin and trees will disguise the building and height.

Mr. Warren made a motion and discussion ensued. Mr. Worley indicated the motion needed to be tied to the site plan. Mr. Fuchs withdrew his second. Mr. Warren then withdrew his motion.

Mr. Warren, **MOTION: to approve V07-010, 2309 Country Park Drive**, as shown on the site plan dated January 23, 2008 with the condition that the existing 900 square-foot free-standing roof on the property be removed. Mr. Fuchs, 2<sup>nd</sup>. **Vote: 6-1** (Famas).

3. **CUP07-011, 1800 Timber Cove Lane.** APN: 111-02-008D and totaling ± 2.41 acres. Zoning is Single-Family 35 (SF-35). LDC Section 2.5.6 and Table 2.3. Request conditional use permit for a detached guesthouse/garage. Owner is Donald S. Grier. Applicant/agent is Robert Sanford, Otwell & Associates Architects. Community Planner is Wendell Hardin (928) 777-1259. (*Continued from 01-17-08*).

Mr. Hardin reviewed the staff report and indicated:

- the guesthouse will be under the 600 square foot maximum;
- aerial photographs were presented of the property in regard to the zoning requirements;
- the access was changed in 2006 with a replat;
- ingress and egress was replatted so that a land lock would not occur;
- in conjunction, an Administrative Adjustment of 10% was granted;
- an outcropping of rocks and heavy foliage shields the site of the proposed guesthouse;
- the placement will not impact the views, especially those of the neighbor to the northeast;
- no response was received from the notices sent to the other property owners;
- adequate parking exists;
- staff is recommending approval of the variance; and,
- the property owner is present.

Board members queried and remarked on:

- the size of the residence [Mr. Hardin: the house will be 5,400 square feet and the guesthouse will total 584 square feet]; and,
- having received no drawings of the main house.

Mr. Donald Grier, 1098 Pine Country Court, owner of the property, indicated that there will be a three-car garage and that the garage is not included in the 5,400 square foot house.

Mr. Kayn, **MOTION: to approve CUP07-011**, 1800 Timber Cove Lane, according to the site plan as submitted in the staff report dated February 13, 2008. Mr. Mabarak, 2<sup>nd</sup>. **Vote: 7-0.**

#### **IV. REVIEW ITEMS**

None.

#### **V. SUMMARY OF CURRENT OR RECENT EVENTS**

None.

#### **VI. ADJOURNMENT**

Chairman Klein adjourned the public hearing at 10:02 AM.

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Michael Klein, Chairman