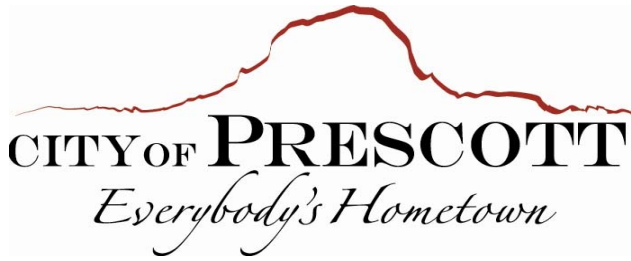


BOARD OF ADJUSTMENT MINUTES



**BOARD OF ADJUSTMENT
PUBLIC HEARING
THURSDAY, January 20th, 2022
9:00 AM**

**Zoom Meeting + Council Chambers
201 S. CORTEZ STREET
PRESCOTT, ARIZONA
(928) 777-1207**

CALL TO ORDER – Chair Lamerson called the meeting to order at 9:00 AM.

I. PLEDGE OF ALLEGIANCE

II. ATTENDANCE

Board Members	
Jim Lamerson, Chair	Mark Hokeness
Tony Teeters, Vice Chair	Larry Meads
Thomas Davis	James Myers, Absent
Mary Frederickson	
Staff	
Bryn Stotler, Community Dev. Director	Kaylee Nunez, Recording Secretary
Tammy DeWitt, Community Planner	
Michelle Chavez, CDBG Coordinator	
Council	
Brandon Montoya, Liaison	Mayor Phil Goode

III. MINUTES

Approve the minutes of the October 21st, 2021 Board of Adjustment meeting.

Vice Chairman Teeters made a motion to approve the October 21st, 2021 minutes with corrections made. The motion was seconded Board Member Davis and passed (6-0).

IV. PUBLIC HEARING ITEMS

1. **CUP21-009** 827 5th Street Unit C, APN: 113-01-061E. Land Development Code (LDC) Sections 3.9 and 9.3. Zoning is Multi-Family- Medium Density (MF-M). Request for a Conditional Use Permit for a Child Day Care for up to 10 children. Owner: Clayton Hall.

Community Planner Tammy Dewitt presented a description of the request, adding that the City's Land Development Code allows for up to 8 children at this daycare as well as other criteria that they must meet. She also presented an aerial view, site plan and site photos. The site photos depict adequate fencing, parking and a play area that meets state requirements. Staff received one letter in opposition from a neighbor to the north. Staff recommends to approve/deny CUP21-010 to approve a home based child day care for a maximum of 8 children at 827 Unit C 5th Street.

Board Member Frederickson wanted to clarify whether the limit was 10 or 8 children, as the packet indicated 10. Ms. Dewitt explained that it is 10 per the state but 8 per the city so the limit is 8.

Robert Regalado, resident of 130 Whipple Place (the adjacent parcel to the north), stated that he has concerns that the daycare will infringe on his quality of life, specifically in regards to excess noise.

Board Member Meads asked what the City can do to mitigate/regulate noise at the daycare site. Ms. Dewitt answered that it would have to be at a level that warrants a noise complaint, and that kids playing will not necessarily warrant that.

Clayton Hall answered that he and his partner, Taneisha, are very sensitive to noise concerns as well as other concerns from neighbors and have already been operating as a babysitting business. Taneisha Williams also clarified that the children are usually out after lunch and are inside the rest of the time, so they are not out there early morning. She stated that operating hours are 7 am -5:30 pm.

Board Member Frederickson asked whether the applicant could go up to 10 children should they obtain their state licensing, Ms. Dewitt answered that they could not, they would still be bound to the 8 children per city code.

Board Member Frederickson made a motion to approve CUP21-009 to approve a home based child day care for a maximum of 8 children at 827 Unit C 5th Street. The motion was seconded by Board Davis. The motion passed (6-0).

2. **CUP21-010** 603 Miller Valley Road, APN: 113-07-013. Land Development Code (LDC) Sections 4.7 and 9.3. Zoning is Business General (BG). Request for a Conditional Use Permit for a tattoo business. Owner: Passarada LLC. Applicant: Ricky Henderson (Bold As Love Tattoo).

Community Planner Tammy Dewitt presented a description of the request, adding that a Conditional Use Permit (CUP) was approved for the same location and business type (tattoo parlor) last. However, since CUPs run with applicants a new one is required as the business owner and title has changed. Ms. Dewitt presented aerial and zoning maps as well as site photos and a floor plan. She explained that no letters of opposition or otherwise were received from neighbors. Staff recommends to approve/deny CUP21-010, to approve a tattoo parlor in a Business General (BG) zoning.

Board Member Davis made a motion to approve CUP21-010. The motion was seconded by Board Member Teeters. The motion passed (6-0).

3. **V21-008** Variance to Article 6, Section 6.12.5.A.1.h. (Permanent On-Site Signs) of the Land Development Code (LDC) to allow for an increase in the allowed 32 square foot menu board sign to allow for a 46 square foot menu board sign for a new Culver's Restaurant on an approximate 1.89 acre parcel. Zoning: Business General (BG). APN: 106-21-008N. Location: 3125 Willow Creek Road. Owner: Williamson 5 Real Estate LLC. Applicant: Lora Martinson.

Community Planner Tammy Dewitt presented aerial and zoning maps of the subject property, which is within a commercial corridor, which has additional screening/landscaping requirements per City code. There is a Circle K on the property immediately adjacent to the southwest, which plans on expanding in the next year. The 6' tall wall in the rear of the property meets city code screening criteria.

Ms. Dewitt added that staff did receive one letter of opposition, which opposed the whole project. Ms. Dewitt clarified that the Board is only discussing a menu board variance, however. Ms. Dewitt also presented site photos and a site plan detailing ingress and egress and the locations of the menu boards, which face away from the residences to the south. A rendering of the menu board with dimensions was presented as well. Staff moves to approve/deny V21-008, to allow for the menu board signs to be up to 46 square feet each.

Board Member Meads explained that he agrees with the applicant in creating a larger board rather than two boards, which could slow down drive through times.

Mr. Trey Watts, a representative of Culvers, explained that these menu boards are not for advertisement for new customers but for customer education, rather and are the brand standard and are in all 900+ stores.

Board Member Davis expressed concern that this may set a precedent for other businesses to request larger signage. Ms. Dewitt explained that since variances are considered on a property by property basis it would be hard to determine whether that would happen, however, many businesses and business centers have requested comprehensive sign plans which allow them to go beyond the standard square footage restrictions of city code.

Board Member Hokeness asked whether the City's sign requirements are drastically different or more restrictive than other municipalities, Ms. Dewitt answered that they are not and this is the first sign Variance request the City has received in a long time.

Board Member Frederickson asked for whether the height of the board is essentially the same as the screening to the south. Ms. Dewitt answered that it is.

Community Director Bryn Stotler explained that it is not uncommon for these national brands to have a standard they do not like to deviate from and that we are looking for visual blight concerns which seem to be mitigated by screening and facing the boards away from residences.

City Attorney Matt Podracky stated that a favorable vote on this *does not* set a legal precedent for larger signs to be automatically approved in the future in order to address Board Member Davis's earlier concerns

Board Member Meads made a motion to approve V21-008, to allow for two menu board signs to be up to 46 sq. ft. each. The motion was seconded by Board Member Frederickson. The motion passed (5-1) with Board Member Hokeness voting no.

V. STAFF UPDATES

None

VI. ADJOURNMENT

Meeting adjourned at 9:56 AM.



Jim Lamerson, Chair



Kaylee Nunez, Recording Secretary