
**Minutes
BOARD OF ADJUSTMENT
AUGUST 22, 2007**

The study session of the Board of Adjustment began at 6:30 p.m., in the Council Chambers, 31 East Fifth Street, Tempe, Arizona.

Present:

Slade Lawson
Jon Gillan
Dr. Adhikari
Wallis Stemm
Jeff Winter
Dave Maza

Steve Abrahamson, Planning & Zoning Coordinator
Sherri Lesser, Senior Planner
Shawn Daffara, Planner II

Absent:

Joe Arredondo
Doug Brown
Todd Green

There were 2 citizens at the pre-session.

The Study Session adjourned at 6:55 p.m.

Minutes of the regular hearing of the Board of Adjustment, of the City of Tempe, which was held at the Council Chambers, 31 East Fifth Street, Tempe, Arizona.

Present:

Slade Lawson
Jon Gillan
Dr. Adhikari
Wallis Stemm
Jeff Winter
Dave Maza

Sherri Lesser, Senior Planner
Shawn Daffara, Planner II

Absent:

Joe Arredondo
Doug Brown

Number of Interested Citizens Present:

2

Hearing convened at 7:00 p.m. and was called to order by Vice Chair Winter.

Dr. Adhikari requested that the June 27, 2007 Board of Adjustment Minutes, Item PL070170 – Haring Residence Abatement be amended to indicate that should the property fall out of compliance, the abatement approval shall remain valid for 180 days.

On a motion by Dr. Adhikari, seconded by Dave Maza, the Board by a vote of 6-0 approved the amended Board of Adjustment minutes for June 27, 2007.

THE BOARD DISCUSSED THE FOLLOWING CASE:

PL070232 Appeal of the ~~April~~ **June 27, 2007 (CORRECTED BY DEVELOPMENT SERVICES DEPARTMENT)** Hearing Officer's decision to modify the request by the **TURLEY RESIDENCE (VRA07002)** (Tom Turley, applicant/property owner) located at 947 East Carver Road in the AG, Agricultural District for:

VAR07017 Variance to reduce the east side yard setback from twenty (20) feet to **sixteen (16) feet fourteen (14) feet eight (8) inches. MODIFIED BY HEARING OFFICER**

Mr. Tom Turley was present to represent this case.

Jeff Winters asked Sherri Lesser, staff planner, to discuss the requested variance (Section 6-309).

Mr. Turley stated that the reason he needs the fourteen (14) feet eight (8) inch setback is that a six (6) foot breezeway is required between the main residence and proposed garage for wheelchair accessibility. The setback as approved by the Hearing Officer decreases the breezeway to four (4) feet. Mr. Turley stated that the ADA requires a four (4) foot turn radius, and although the variance as modified by the Hearing Officer allows for four (4) feet, there is no extra room. Mr. Turley explained that he would be more comfortable if there was a six (6) foot area.

Jon Gillan asked the applicant if he added the floor plan of the existing home and how it connects to the new addition; the garage is being changed to two (2) new bedrooms.

Jeff Winter requested that Mr. Turley show the floor plan for the entire house.

Jon Gillan asked if Mr. Turley could move the proposed addition to the south where the lot has more area available. He explained that an explanation or alternative justifying the increased variance was necessary, instead of the Board granting the variance which would set a precedent for fourteen (14) feet eight (8) inches.

Wallis Stemm asked the age of children residing in the home.

Mr. Turley responded that the children's ages were 11, 7, 5 and 4.

Dave Maza noted that the garage as shown is eighteen (18) feet wide with a fourteen (14) foot wide door. He asked Mr. Turley if some square footage could be trimmed off of the garage, creating a five (5) foot six (6) inch breezeway. This type of redesign would trim the square footage off of the garage, keeping the sixteen (16) foot setback and allowing a five (5) foot six (6) inch breezeway.

Mr. Turley responded that if the garage moves closer to the house, the roof lines would touch causing a building code conflict according to the Building Safety Division. If he moves the garage to the south, it would block the view of the swimming pool from the main residence.

Dave Maza stated that this is a large lot and there should be adequate space to build the garage and stay within the sixteen (16) foot setback.

Suzanne Barnett-Scott, of 8301 South Jentilly Lane, spoke in opposition to this request. She stated that she resided due south of the Turley Residence and that no variance should be granted. The property is one (1) acre and the owner already has a garage/barn at the rear of the lot. This garage should not be allowed to cross into the setbacks. The purpose of the Zoning Ordinance is to protect property rights and the quality of life of all the city's residents.

Slade Lawson asked if the addition was built, could Ms. Barnett-Scott see it from her property; it appeared that the main problem with the owners was the previous garage/barn which had been built at the rear of the site.

Ms. Barnett-Scott responded that she can see the main house and would imagine that she would see the new addition. Part of the charm of the neighborhood, she explained, is that the houses are not on top of each other and that there is plenty of room to build on an acre lot.

Dr. Adhikari noted that Mr. Turley has a garage door of fourteen (14) feet width and an eighteen (18) foot wide garage. He asked why the garage could not be squeezed to be less than eighteen (18) feet.

Mr. Turley responded that the width of the garage could be shortened to a single car garage but that a single car garage does not fit with the neighborhood where the majority of the homes have three or four car garages. He wants to keep the value of the neighborhood up.

Dr. Adhikari stated that although the variance as requested would on be an additional sixteen (16) feet there is not any rational for approving it as the hardship appears to be self-imposed.

Dave Maza stated that the sixteen (16) foot setback was based on the use permit standard of twenty percent (20%) and no other true variances have been approved for side setback reductions.

Sherri Lesser stated that the only variance granted for a front yard setback was fro the Contrell Residence (VAR07015) that the Board of Adjustment had granted. Also a variance had been granted to waive paving materials to allow a non-paved driveway.

Slade Lawson stated that even if the Board of Adjustment denies Mr. Turley's appeal, he will still have approval for a sixteen (16) foot setback.

MOTION: Dave Maza made a motion to deny the appeal and uphold the Hearing Officer's decision to modify the variance to reduce the east side yard setback from twenty (20) feet to sixteen (16) feet; Dr. Adhikari seconded the motion, stating that he did not see any compelling argument to allow an additional setback of one (1) foot four (4) inches and that sixteen (16) feet is not going to make a visual impact from the street.

Jon Gillan stated that he did not see any compelling argument to allow the additional setback and that the redesign of the garage should accomplish having a design that works with a sixteen (16) foot setback.

Slade Lawson stated that there had been some vocal opposition to the request and that preserving setbacks is important to the neighborhood.

VOTE: Denied 6-0

The next Board of Adjustment hearing is scheduled for September 26, 2007. Dave Maza requested that at the next Study Session that the planning staff provide Board members with information and policy regarding mother-in-law/guest quarters. He explained that they wanted to get direction on a finding that the Board of Adjustment could forward as comments on guest quarters to the City Council to figure out rules for guest quarters.

There being no further business the hearing adjourned at 8:03 p.m.

Prepared by: Diane McGuire, Administrative Assistant II

Reviewed by:



Sherri Lesser, Senior Planner

SL:dm