



TOWN OF JEROME
POST OFFICE BOX 335, JEROME, ARIZONA (928) 634-7943

MINUTES

**Special Meeting of the Board of Adjustment
Tuesday, September 21, 2021, at 5:00 pm
CONDUCTED VIA ZOOM**

5:04 (0:14) Item 1: Call to order/roll call

Chair Gary Shapiro called the meeting to order at 5:04 p.m.

Deputy Town Clerk Rosa Cays called the roll. Present were Chair Shapiro, Vice Chair Suzy Mound, and board members Chris Babbage, Natalie Barlow, and new member Margie Hardie. Also present was Zoning Administrator John Knight.

[Chair Shapiro experienced a slight technical delay.]

5:06 (1:57) Item 2: Petitions from the public – There were no petitions from the public.

5:06 (2:12) Item 3: Election of Officers

Mr. Knight reminded Chair Shapiro that new officers are elected once a year, but that the board also had the option to postpone an election.

Motion to table the election of new officers

BOARD MEMBER	MOVED	SECONDED	AYE	NAY	ABSENT	ABSTAIN
BABBAGE	X		X			
BARLOW		X	X			
HARDIE			X			
MOUND			X			
SHAPIRO			X			

**5:07 (3:16) Item 4: Approval of Minutes: Minutes of the Board of Adjustment meeting of June 24, 2020
Discussion/Possible action**

Motion to approve the minutes of the Board of Adjustment meeting of June 24, 2020

BOARD MEMBER	MOVED	SECONDED	AYE	NAY	ABSENT	ABSTAIN
BABBAGE	X		X			
BARLOW			X			
HARDIE						X
MOUND		X	X			
SHAPIRO			X			

Continued Items from Previous Meetings:

5:08 (3:51) Item 5: Adoption of Board of Adjustment bylaws

Applicant: Town of Jerome

Discussion/Possible action

Mr. Knight stated that the Board of Adjustment bylaws had been presented, discussed, and changes approved with one exception at the last Board of Adjustment meeting in June 2020. He said a clean copy of the revised bylaws (free of tracked changes) was being presented as a "refresher."

Ms. Hardie pointed out that in Section 105.A.3.c, the number of unexcused absences per year (three), did not comply with the zoning ordinance (four unexcused absences). Mr. Babbage asked, "When will we ever have four meetings in a year?" Ms. Hardie said the bylaws should follow the ordinance and moved that they make the change to the bylaws.

Motion to adopt the Board of Adjustment bylaws with changes discussed

BOARD MEMBER	MOVED	SECONDED	AYE	NAY	ABSENT	ABSTAIN
BABBAGE				X		
BARLOW			X			
HARDIE	X		X			
MOUND		X	X			
SHAPIRO			X			

New Business:

5:14 (9:47) Item 6: Variance request to construct a 280-square-foot garage.

Address: 875 Gulch Road

Zone: AR

Applicant/Owner: Cynthia Barber/Christina and Cynthia Barber

APN: 401-09-013

Applicant is seeking a variance to the twenty- (20-) foot front (street) setback requirement to allow a garage to be constructed approximately five (5) feet from the front property line on Allen Springs Road.

Discussion/Possible action

Ms. Hardie said the applicants are required to request two separate variances: one for the setback and one for the accessory building. She explained the yards and said the property had dual frontages, or two front yards. She said no accessory buildings are allowed in a front yard, per the ordinance (Sections 503.E.a.2 and 502.H.7). She suggested tabling the item.

(5:17) Jerome resident Cynthia Barber presented photos of other accessory buildings along Gulch Road and stated that the physical address of the home was 875 Gulch Road. She said the yard along Allen Springs Road, which was no longer a "through" road, was a side yard and that there was already an existing slab and stem wall from the old garage. Ms. Barber said the newly constructed garage would be 17 feet from Gulch Road and 5 feet from Allen Springs Road. She remarked that the zoning ordinance is written without the Gulch in mind and that part of the Board of Adjustment's role—and why it exists—is to consider what the situations are at neighboring properties.

Chair Shapiro said the applicants had demonstrated exceptional due diligence in their application.

Vice Chair Mound said because of the address, she had not considered the dual frontage and saw the garage as being built in the back yard. She said other accessory buildings in the area are close to the frontage. "Let them reconstruct their garage," said the vice chair.

Ms. Hardie mentioned again to table the item to include two variances unless the board does not think it is needed.

Mr. Knight said a precedence was set regarding unusually shaped lots, i.e., the Nord property on First Street and that it was within the board's purview to consider the Allen Springs Road frontage a side yard and not require a separate variance.

Mr. Babbage moved to approve the variance based on the neighborhood. Ms. Barlow remarked that it was an historic rebuild, which is also worth noting.

Motion to approve the variance request to construct a garage at 875 Gulch Road

BOARD MEMBER	MOVED	SECONDED	AYE	NAY	ABSENT	ABSTAIN
BABBAGE	X		X			
BARLOW			X			
HARDIE			X			
MOUND		X	X			
SHAPIRO			X			

5:27 (22:54) Item 7: Variance request for construction of a new single-family home.

Address: 148 Juarez Street

Zone: AR

Applicant/Owner: Mary (Liz) Gale

APN: 401-06-140C

Applicant is seeking a variance to the twenty- (20-) foot front (street) setback requirement to allow a new home to be constructed approximately five (5) feet from the front property line.

Discussion/Possible action

Chair Shapiro introduced the item.

(23:31) Property owner and applicant Liz Gale was hoping to build with an approved setback variance so that the dimensions of the single-family home would be "normal." She said other houses on Juarez have even less of a setback than what she was requesting.

Chair Shapiro said he spoke with Fire Chief Blair because he was concerned about access for the fire department; that the lot used to be a place for them to turn around on the single-laned street. He said Chief Blair told him that access should not be affected too much.

Mr. Knight said he also talked to the fire chief and that the fire code calls for a turnaround; he said Chief Blair does not approve of variances because they tend to impede his ability to fight fire. Mr. Knight said the board could make it a condition to include a turnaround on the property, although the requirement was more common for a subdivision.

Mr. Babbage asked if the closest hydrant was on Diaz Street and remarked that there was plenty of room for an ambulance on Juarez.

Ms. Hardie informed everyone that the applicant's property is for sale and that Jerome resident Carol Anne Teague is the realtor. She pointed out that a couple of the board members have shared information that was told to them and was not in writing, and felt she, too, should share information from a conversation she had that afternoon with Mr. Knight. She said he told her that "other people would be buying the property." Ms. Hardie said she did not understand why Ms. Gale would be requesting a variance if her property was for sale.

Ms. Hardie said Mr. Knight also told her that the applicant had "petitioned" the neighborhood about rezoning the area, which would negate the need for a variance, but that no one on Juarez was interested in rezoning. Ms. Hardie said Mr. Knight also informed her that there were two interested buyers. Ms. Hardie said if the board wants to grant the variance, she would like to see it approved based on the zoning ordinance. She quoted from the ordinance, which states that every variance granted must be "personal to the appellant" ... and "shall be transferrable and shall run with the land only after the completion of any authorized structure or structures."

Chair Shapiro said this would mean Ms. Gale would have to start construction within 30 days of the variance approval.

(34:51) Ms. Teague stated the fact that the lot is for sale should have nothing to do with granting a setback variance. She said the setbacks have discouraged any interest in the property and that no one was interested in buying the lot at this moment.

(35:47) Ms. Gale said she has owned the lot for several years and that she was asking for a variance to show that it is a buildable lot and can conform to other buildings on Juarez; otherwise, it is not salable. Chair Shapiro said that her application was then "out of order" and that she would need to intend to build for herself, not to sell the lot, if she expected a variance. Ms. Gale said she was under the impression she could request a variance for this reason.

Mr. Babbage said he thought the applicant had included plans for the house and was confused as to why the board could not grant a variance.

Ms. Gale asked Mr. Knight for his opinion. He said he was under the impression the variance "ran with the land." He suggested legal guidance may be needed.

Mr. Babbage said the variance does go with the land and that Ms. Gale is wanting a variance to build a house.

Chair Shapiro clarified that Ms. Gale testified that she had no intention of building a house and wants to sell the lot. He compared this request to the one submitted by Wendy Jackson for parking at the Cuban Queen. He said the variance would be expunged after 30 days if no action is taken. A brief discussion ensued. Chair Shapiro suggested tabling the item.

Mr. Knight stated that Ms. Gale would have to "exercise" the variance and pull a building permit within six months.

Ms. Gale asked if she would have to build the house or could she just pull the permit within six months to get the variance. Chair Shapiro said he believed construction would have to commence within the six months. Ms. Gale said she may need to discuss this with a land use attorney before the board makes a decision. Ms. Hardie said the board would also need a lawyer and that she agreed with Chair Shapiro. She said Ms. Gale wanted to sell the land with the variance to make it more valuable, which does not justify approving a variance.

Mr. Knight said if the board were to table the item, it would be best to table it to a specific date so the public hearing can be continued without having to post a new notice.

Ms. Barlow said she did not agree with Mr. Babbage and his earlier comment about the setbacks along Juarez Street. She said a new house should meet the setbacks and the parking requirements and that the use of the building should be clarified.

(48:15) Ms. Gale said what Ms. Hardie stated was not true regarding a variance for the backyard setback.

Mr. Babbage said all the houses on Juarez had 5- and 10-foot setbacks except for Joan Evans's house. Ms. Barlow disagreed and said 13 feet or even 10 feet is better than 5 feet.

Ms. Mound asked if they were to table the item, what date would work for Ms. Gale. Chair Shapiro suggested November 2.

Ms. Hardie questioned the reason for tabling the item. Discussion ensued about the need to table and whether the variance goes with the owner or with the land. Ms. Hardie said they should simply vote unless Ms. Gale planned to change her application. After further discussion, Chair Shapiro asked Ms. Gale if she intended to build or not. She replied she did not.

Vice Chair Mound said she did not see a reason to table the item.

Motion to deny the variance request for construction of a new single-family home at 148 Juarez Street

BOARD MEMBER	MOVED	SECONDED	AYE	NAY	ABSENT	ABSTAIN
BABBAGE			X			
BARLOW			X			
HARDIE	X		X			
MOUND		X	X			
SHAPIRO			X			

6:01 (56:54) Item 8: Variance request for a rear deck extension.

Address: 630 Main Street

Zone: R1-5

Applicant/Owner: Adam Downey/Thomas Bauers

APN: 401-07-151

Applicant is seeking a variance to the five- (5-) foot rear setback requirement to allow a deck to be constructed approximately one (1) foot from the rear property line.

Chair Shapiro introduced the item and asked about the dimensions of the land owned by UVX and if it was buildable or landlocked.

(58:06) Homeowner and applicant Thomas Bauers said he believed it was not buildable but did not know the dimensions of the lot and that he has leased and taken care of it for more than 20 years, with first option to buy. He referred to a letter included in his application from property manager Roberta Westcott, giving permission to build close to the property line.

Mr. Babbage said he had a comparable situation behind his property, and Chair Shapiro said he leases his driveway from UVX. Chair Shapiro then clarified for Ms. Hardie that he had asked about the dimensions of the UVX lot east of Mr. Bauer's property, not the deck dimensions.

Ms. Hardie asked Mr. Bauers why he was extending his deck. He replied that it was for his pleasure, but that he was also ready to rebuild and wanted to improve the deck and have a place for entertaining guests near the kitchen. He mentioned that neighbors have sheds and hot tubs near lot lines. He also mentioned that he takes care of the neighboring vacant property.

Ms. Hardie said the purpose of the variance request was the question she had and wasn't sure Mr. Bauers's reason was valid.

Mr. Babbage said leases don't count and that the next physical neighbor adjacent to the UVX property is more than 20 feet away.

Vice Chair Mound reminded the other members that Mr. Bauers holds the lease and has for more than 20 years, with first option to buy, and that he is not encroaching on other property. She said she understood his desire to improve his outdoor living space.

Ms. Barlow asked Mr. Bauers to explain how this was in compliance with the fire department. Mr. Bauers said he was using fire-resistant materials. Ms. Barlow then asked him to share what Fire Chief Rusty Blair had told him, and how the JFD would fight a fire at his home. Mr. Bauers said they would fight a fire from Highway 89 or from Holly Street below, but that in his conversation with Chief Blair about the deck, he only mentioned flammability, not access to the house. Mr. Bauers said the fire department has shown up before and had no problem getting to his house.

Mr. Knight said any variance can potentially impede the JFD's ability to fight fire, but that the use of noncombustible materials and access under the deck to get the back of the property were two key factors regarding Mr. Bauers's property.

Ms. Hardie said the purpose of granting a variance is because of topography or a common condition in a neighborhood that doesn't necessarily comply with the zoning ordinance. She said for Mr. Bauers, this was personal and self-imposed. She used as an example Ms. Gale asking for a variance so she could sell her land for more money. Ms. Hardie and resident Carol Anne Teague briefly exchanged words.

Vice Chair Mound said given the fact there are no close neighbors, this is not the same situation as in the Gulch. For this and other reasons iterated earlier, she felt Mr. Bauers should be able to enjoy the property and that the current deck is narrow.

Mr. Babbage agreed with the vice chair's conclusion but not her argument. He repeated that leasing property does not count; that the closest neighbor was more than 20 feet away; and that the deck extension would not impinge on anyone.

Ms. Barlow asked for clarification regarding the deck. Mr. Bauers said it was 10 feet off the ground.

Ms. Hardie brought up the noncombustible materials and said perhaps that they could be a condition of variance approval.

Discussion/Possible action

Motion to approve the variance request for a rear deck extension at 630 Main Street on condition that low-combustible materials are used per the fire chief's recommendation

BOARD MEMBER	MOVED	SECONDED	AYE	NAY	ABSENT	ABSTAIN
BABBAGE	X		X			
BARLOW			X			
HARDIE			X			
MOUND			X			
SHAPIRO		X	X			

Informational Items (Current Event Summaries):

6:29 (1:25:24) Item 9: Future Items – none scheduled.

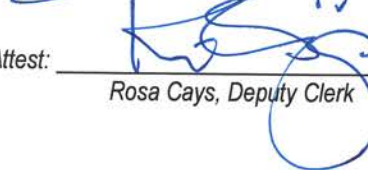
Item 10: Adjourn

Motion to adjourn at 6:29 p.m.

BOARD MEMBER	MOVED	SECONDED	AYE	NAY	ABSENT	ABSTAIN
BABBAGE	X		X			
BARLOW			X			
HARDIE			X			
MOUND		X	X			
SHAPIRO			X			

Approved: 
 Gary Shapiro, Chair

Date: Feb 17, 2022

Attest: 
 Rosa Cays, Deputy Clerk

Date: 17 Feb 2022