

MINUTES OF A REGULAR MEETING OF THE BOARD OF ADJUSTMENT OF THE TOWN OF CLARKDALE HELD WEDNESDAY, JUNE 27, 2012, IN THE MEN'S LOUNGE OF THE CLARK MEMORIAL CLUBHOUSE, 19 N. NINTH STREET, CLARKDALE, AZ.

A **REGULAR** Meeting of the Board of Adjustment of the Town of Clarkdale was held on Wednesday, June 27, 2012, at 6:00 p.m. in the Men's Lounge of the Clarkdale Memorial Clubhouse, 19 N. Ninth Street, Clarkdale, AZ.

Board of Adjustment:

Chairperson	Lee Daniels	Present
Vice Chairperson	Pete Cure	Present
Board Members	Rick Morris	Excused
	Craig Backus	Present
	Aaron Midkiff	Present

Staff:

Senior Planner	Beth Escobar
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Others in Attendance: Caryn Grasso, applicant.

1. **AGENDA ITEM:** **CALL TO ORDER:** The Chairperson called the meeting to order at 6:01 p.m.
2. **AGENDA ITEM:** **ROLL CALL:** The Senior Planner called roll.
3. **AGENDA ITEM:** **MINUTES:** **Consideration of the Regular Meeting Minutes of October 26, 2011.** Board Member Backus motioned to approve the Regular Meeting Minutes of October 26, 2011. Board Member Cure seconded the motion. The motion passed unanimously.
4. **AGENDA ITEM:** **REPORTS:**

Chairperson's Report:

None

Staff Report:

None

5. **AGENDA ITEM:** **PUBLIC COMMENT:** The public is invited to provide comments at this time on items that are not on this agenda. Action taken as a result of public comment will be limited to directing staff to study the matter, or scheduling the matter for further consideration and decision on a later agenda, as required by the

Arizona Open Meeting Law. Each speaker is asked to limit his or her comments to FIVE minutes. **There was no public comment.**

NEW BUSINESS

6. **AGENDA ITEM: PUBLIC HEARING:** Discussion/possible action regarding a variance request to reduce the 10-foot setback requirement for placement of a pool, involving parcel number 406-58-022 in the Town of Clarkdale. This parcel is located at 2220 Gerry Sue Drive in Clarkdale and zoned R-1 Single-Family Residential. The variance request is to reduce the required 10-foot setback from property lines for a pool, per Section 4-6 of the Town of Clarkdale Zoning Code, to four feet from the side and rear lines of the property.

- a. The Chairperson opened the public hearing.
- b. Senior Planner Escobar provided a summary of the staff report:

The Board of Adjustment shall have the powers and duties as prescribed by law and ordinance including, according to Town Code, Section 17-2-2 C:

“To hear and decide on requests for variances from the strict application of the Zoning Code as adopted by the Town of Clarkdale where by reason of exceptional narrowness, shallowness, shape, or topography, or a property’s location and surroundings the strict application of said standards will deprive the subject property of privileges lawfully permitted other properties in the same zone district or immediate vicinity. Decisions shall be based upon a review of the application in conformance with the following criteria:

1. **SPECIAL CIRCUMSTANCES:** There are special circumstances attributable to the property which are not applicable to other properties in the area or within the same zone district. The special circumstances must be related to the physical characteristics of the property including its shape, size, topography, location or surroundings and may not be related to the personal circumstances of the property owner or applicant.

Staff comment: The placement of the residence on a northwest axis, driven by the requirement to have driveway access to Gerrysue Drive and the fact that the parcel is a rectangle, with longer sides on the east and west and shorter sides on the north and south, created a small backyard area. The non-vehicular access easement that crosses the southern property boundary of the subject property also crosses Lots 149 and 150, the two lots to the west of the subject property. The plat shows a shared driveway for these two lots, however, this is not how the property developed. These two lots were able to develop on an east west axis, with the homes fronting Black Hills Drive. With this orientation, these two homes have a wider backyard area.

2. **UNDUE HARDSHIP:** If special circumstances attributable to the property exist, they must be of such a nature that the strict application of the development standards will result in an undue hardship. An undue hardship exists when the strict application of the Zoning Code is so unreasonable that it renders the property unusable without the granting of a variance. Hardship relates to the physical characteristics of the property, not the personal circumstances of the property owner or applicant.

Staff comment: The design of the plat for Haskell Springs, Phase I created a special circumstance for this property that limited the size of the backyard area. Since the parcel was developed as the model home for the subdivision, careful consideration for the long term residential use of the property may have been lacking.

3. **PUBLIC HEALTH, SAFETY AND WELFARE:** A variance may be granted only if it can be done without substantial detriment to public health, safety or welfare and without substantial departure from the intent of the standard from which relief is requested.

Staff comment: If this variance was granted, the new pool would be constructed in full compliance with the building code and state and federal requirements for pools and security fencing.

4. **ADEQUATE FINANCIAL RETURN:** The applicant's need for an adequate financial return on investment shall not be considered justification for the granting of a variance.

Staff comment: If this variance was granted, the new pool would be constructed in full compliance with the building code and state and federal requirements for pools and security fencing.

5. **SELF-IMPOSED SPECIAL CIRCUMSTANCES:** A variance shall not be granted when the special circumstances, from which relief is requested, have been self-imposed by a current or former property owner or applicant.

Staff Comment: The special circumstance that impacts this property was created when the subdivision was platted and when the model home was constructed.

6. **USE VARIANCE:** A use variance may not be granted. (A use variance is one which would allow, as an example, a retail commercial establishment in a single family residential zone district).

The Board must consider the findings listed above in any variance approval, and must be able to make the findings that are required by law.

Also, according to ARS 9-462.06, "Any variance granted is subject to such conditions as will assure the adjustment authorized shall not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and zone in which such property is located."

Applicant Presentation:

Caryn Grasso, applicant, had no formal presentation.

Invite Public to Speak:

Chairman Daniels opened the hearing to the public. There was no public comment.

CLOSE Public Hearing:

The Chairperson closed the Public Hearing.

Questions May Be Directed to Staff / Applicant:

Board Member Cure asked if the patio area would need to be removed to accommodate the pool. Ms. Grasso stated yes, the plan is to remove this area and place decking around the pool.

The Board discussed the required fencing for a pool. Senior Planner Escobar informed the board that the current fencing at the property does not comply with the requirements for pools, and if the variance was granted the applicant would have to modify this fencing.

Board Member Cure asked any input was received from the property owners of lots 146 and 149. Per Senior Planner Escobar, no comments were received from these property owners and no mail has been returned.

Discussion:

Board Member Cure moved to approve the variance request based on the following findings:

That special circumstances exist on this property because of the orientation of the house and the rectangle shape of the property, and the fact that it was developed as a model home.

ACTION: Board Member Backus seconded the motion. The motion passed unanimously.

7. **AGENDA ITEM: FUTURE AGENDA ITEMS:**

An application for a variance from front setback requirements has been received and is scheduled to be heard by the Board on July 25, 2012 one at this time.

8. **AGENDA ITEM: ADJOURNMENT:** Board Member Cure motioned to adjourn the meeting. Board Member Backus seconded the motion. The motion passed unanimously. The meeting adjourned at 6:23 p.m.

APPROVED BY:



Lee Daniels
Chairperson

SUBMITTED BY:



Beth Escobar
Senior Planner