

**MINUTES OF A REGULAR MEETING OF THE BOARD OF ADJUSTMENT OF THE TOWN OF CLARKDALE HELD JULY 28<sup>TH</sup>, 2004 AT 6:00 P.M. IN THE MEN'S LOUNGE OF THE CLARK MEMORIAL CLUBHOUSE, 19 N. NINTH STREET, CLARKDALE, ARIZONA.**

A regular meeting of the Board of Adjustment of the Town of Clarkdale was held on July 28<sup>th</sup>, 2004, at 6:00 p.m. in the Men's Lounge.

Chairperson	Robert Noland	Present
Vice Chairperson	Jerry Wiley	Absent
Board Members	Charles Bennett	Present
	Duane Norton	Present
	Frank Sa	Absent

**Staff:**

Planning Director	Steven Brown
Planner II	Beth Escobar
Administrative Assistant	Normalinda Zúñiga

**Others in Attendance:** Lee Daniels, Cindy and Robert Erickson, Linda Noland, Anthony B. Moreno, Lydia Moreno, Reese Dixon, Annette K., Alex Inojosa, and others whose names were illegible.

**1. CALL TO ORDER/ROLL CALL**

**2. MINUTES:** Boardmember Norton made a motion to approve the minutes of April 28<sup>th</sup>. Boardmember Bennett seconded the motion. The motion passed unanimously.

**3. REPORTS:**

**Chairperson's Report:** Chairperson Noland reported that Boardmembers Frank Sa and Jerry Wiley would no longer be with the Board of Adjustment as they have been elected to the Town Council. Mr. Lee Daniels and Anita Simgen have been appointed the Board of Adjustment, and Chairperson Noland will be leaving as he has been appointed to the Planning Commission. Also the Board of Adjustment will need to select a new Chairperon.

**Planning Director's Report:** Planner Escobar reported that the 2004 Annual Boards and Commissions Conference will be held soon and if any Boardmembers would like to attend they need to notify Ms. Escobar or Ms. Zúñiga. Boardmember Norton and Noland said that they both would like to attend.

4. **PUBLIC COMMENT:** No public comment

**NEW BUSINESS**

5. **PUBLIC HEARING on a Variance Request by Robert and Cindy Erickson for the property located at 800 Calle Tomallo, in the Town of Clarkdale, otherwise identified as Yavapai County assessor's parcel # 406-24-100. The Variance seeks relief from Section 13.A of the Zoning Code of the Town of Clarkdale to allow a multifamily use in the R4A Zoning district, where this use is not permitted.**

Chairman Noland opened the Public Hearing and noted that there were members of the public present and asked if any members of the public would like to make a public comment. **Mark Dixon a representative of the Dixon Family Trust who lives on Calle Tomallo** stated that their big concern was the impact in that neighborhood. Most of the people that live in the neighborhood are long term residents and are worried more about multifamily dwellings in the area in regards to traffic, the substructure really wasn't designed for multifamily in the area, it has been upgraded but is still not designed for multifamily dwellings and the impact that that would have in that area.

Chairman Noland asked the Erickson's to explain the history of the property and what they were seeking.

**Mrs. Cindy Erickson of 1031 Salahkai Trail, Flagstaff**, discussed the history of the property, which included what they property was used for and how it had evolved from a single family dwelling to a multifamily dwelling. Mrs. Erickson also stated that this process would just be legitimizing what has already been going on.

**Mr. Reese Dixon of 841 Calle Tomallo** stated that the Erickson's have "had this property for sale for sometime. Okay, say you pass this, they sell the place, what's the next guy going to put in there. You know yourself if you're around mobile people you have problems. I've been hearing noises over there, one night some woman and man fought all night over there just about a week ago. Don't know where it come from but right in that area. And a dog barking all night, several nights. I'm not one to complain, I don't complain unless I have to. But these are the things that happen when you go into this stuff. I don't think our neighborhood needs this kind of stuff. We have enough trouble with drugs and the kinds of people that live out there and the police have enough trouble, we don't need to add to that. That's my feelings."

**Mr. Alex Inojosa of 880 Calle Carrillo** stated that there are current multifamily houses in the area that are very problematic. Mr. Inojosa stated that "...we can't be responsible for someone taking care of somebody else's yard. You can't be responsible for stuff blowing in and stuff blowing out. I mean, it's their rental and they need to take care of it. But other than that I think it should stay single family dwelling unless it's a family member or anything like that but other than that it should stay the way it is, we got enough problems as it is. That's it thanks."

The board also received a couple of letters that were read into the record:

Dear Ms. Escobar;

In regards to the public hearing for a multifamily unit at 800 Calle Tomallo; I am against such a proposal at this time; due to the possible implications this could open up in the future. Thank you for considering my thoughts on this matter in letter form as I will be out of town on the 28<sup>th</sup> of July. **Laurie Handley 801 Calle Rosas, Clarkdale.**

Dear Ms. Zuniga:

With regard to the public notice I received on the variance request for 800 Calle Tomallo, parcel # 406-24-100, I strongly oppose changing the property from R4A to a multifamily use. Apparently, this is being done "after the fact" as the property has been used as several rental units for quite some time. I know the current owners tried to sell the property before as a single family dwelling, and were unsuccessful. They then turned it into several rental units, apparently in violation of planning and zoning regulations. I understand it is now in the process of being sold, and the new owner wishes it to remain 2 separate rentals on one lot. Centerville has enough rental properties that are already problems with absentee landlords and slum conditions. We do not need more rental properties! I can foresee this "opening a can of worms" with more residents wishing to do the same thing with their property.

This property was built as a single-family home with separate additions. It should remain a single family dwelling, as that was the original intention. I really am reluctant to oppose this request by the Erickson's, as I know them and they have helped in many Centerville Community activities while living here, however, I feel strongly that this request will not benefit anyone living in Centerville.

I am unable to attend the meeting on July 28, 2004 regarding this variance request. I am asking you to please not approve this variance request. **Shelby Maynard, 800 Calle Rosas, Clarkdale.**

Boardmember Norton asked the Erickson's how long the property had been used as a rental unit. Ms. Erickson replied three years in August. Ms. Erickson went on to again explain the evolution of the cottage and the guesthouse. Boardmember Norton asked if Coldwell Banker suggested they get the zoning changed. Ms. Erickson stated no. Boardmember Norton asked what the decision to seek a variance was based on. Ms. Erickson explained this property had always been rented. Brief discussion of this followed.

Planning Director Brown brought it to the attention of the Board that "the granting of this variance request for the relief of the zoning requirements would allow a multifamily use of this property for as long as the current structures remain, this is permanent. Also, according to Arizona Revised Statutes, any variance granted is subject to such conditions as will assure that 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. Boardmember is correct in that you will be setting precedent in this case because there will be other people looking at this case and you need to be able to defend this decision in light of other applications that will follow."

Chairperson Noland stated that he felt that the structure was done illegally because the structure was not in proper zoning.

Boardmember Bennett stated that the variance should not be granted due to self imposed special circumstances, he went on to say “whether you started out with the right intentions or not, now it isn’t, now you’re in a single family area and that’s the way they want to keep it and I can tell that by the letters-you know we don’t get a lot of input when we have meetings here, we got a lot and so if I was to vote right now I would vote no.”

Mr. Norton asked staff if a Certificate of Occupancy was issued for the small unit. Planning Director Brown replied that the unit was initially permitted as a garage/storage room, the evolution of it to a residential unit was done without the benefit of any further involvement of the building department.

Chairman Noland closed Public Hearing.

**6. CONSIDERATION AND POSSIBLE ACTION on a Variance Request by Robert and Cindy Erickson for the property located at 800 Calle Tomallo, in the Town of Clarkdale, otherwise identified as Yavapai County assessor’s parcel # 406-24-100. The Variance seeks relief from Section 13.A of the Zoning Code of the Town of Clarkdale to allow a multifamily use in the R4A Zoning district, where this use is not permitted.**

Consideration of the request by the Boardmembers took place. Boardmember Norton stated that based on his examination, comments by the Erickson’s, and comments by the Public, he interprets something that is not zoned for what it is intended to be and can’t approve it. Boardmember Bennett agreed with the statement. Boardmember Norton made a motion that the variance be denied because it is not zoned for a multifamily area based on the “Use Variance: A use variance may not be granted. (A use variance is one that would allow, as an example, a retail commercial establishment in a single-family residential unit area)”. Boardmember Bennett seconded the motion. Chairperson Noland added that the Board consider Self-Imposed Special Circumstances as an additional reason for denying the variance. The Boardmembers agreed. The motion to deny the variance request passed unanimously.

**7. AJOURNMENT:** With no further business to discuss the meeting adjourned at 6:45 p.m.

APPROVED BY:

SUBMITTED BY:

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Acting Chairperson

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Normalinda U. Zúñiga  
Administrative Assistant