

MINUTES OF A REGULAR MEETING OF THE BOARD OF ADJUSTMENT OF THE TOWN OF CLARKDALE HELD WEDNESDAY, MAY 28, 2008, 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, May 28, 2008, at 6:00 p.m. in the Men's Lounge of the Clark Memorial Clubhouse.

Board of Adjustment:

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| Chairperson | Anita Simgen | Present |
| Vice Chairperson | Lee Daniels | Present |
| Board Members | Robyn Prud'homme-Bauer | Present |
| | Larry Connors | Present |

Staff:

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| Building Official | Mike Baker |
| Planner II | Normalinda Zuniga |
| Administrative Assistant II | Vicki McReynolds |

Others in Attendance: Thomas Herndon- (Applicant), Billy Rowland, John Falcha Sandy Nevel, Barak Speed- (Applicant), Joe Spence.

AGENDA ITEM: CALL TO ORDER: The Chairperson called the meeting to order at 6:00 p.m.

AGENDA ITEM: ROLL CALL: The Administrative Assistant called roll.

AGENDA ITEM: MINUTES: Consideration of the Regular Meeting Minutes of October 24, 2007, Cancelled Minutes of November 28, 2007, Special Meeting Minutes of December 19, 2007, Cancelled Minutes of December 26, 2007, Cancelled Minutes of January 23, 2008, Cancelled Minutes of February 27, 2008, Special Meeting Minutes of March 25, 2008, Cancelled Minutes of March 26, 2008, and Cancelled Minutes of April 23, 2008. **Board Member Prud'homme-Bauer motioned to approve the Regular Meeting Minutes of October 24, 2007, Cancelled Minutes of November 28, 2007, Special Meeting Minutes of December 19, 2007, Cancelled Minutes of December 26, 2007, Cancelled Minutes of January 23, 2008, Cancelled Minutes of February 27, 2008, Special Meeting Minutes of March 25, 2008, Cancelled Minutes of March 26, 2008, and Cancelled Minutes of April 23, 2008. Vice Chairperson Daniels seconded the motion. The motion passed unanimously.**

AGENDA ITEM: REPORTS:

Chairperson's Report: The Chairperson stated Board Member Richard Dehnert is no longer on the Board of Adjustment and is now serving on the Town Council. This leaves one opening on this board. The Chairperson did attend the Special Joint Meeting with the Town Council on March 25, 2008 and found it to be very informative and gave perspective as to the Council's vision of the future of the town.

Staff Report: None.

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

AGENDA ITEM: PUBLIC HEARING: Variance Request, ZV-2007-9, from Thomas Herndon, for the property located at 139 Zuni Drive, Parcel #400-04-009. The request is for a variance to allow for an accessory structure to exceed fifteen (15) feet in height.

-Open Public Hearing: Chairperson Simgen motioned to open the public hearing. Vice Chairperson Daniels seconded the motion. The motion passed unanimously.

-Staff Report:

Background:

Mr. Thomas Herndon, the applicant and owner of 139 Zuni Drive, would like to construct a detached accessory structure on his property. According to the plans submitted, Mr. Herndon would like to build a two story detached accessory structure that would serve as a workshop, hobby and storage area. Although Mr. Herndon has opted to go with a flat roof plan in order to keep the building as unobtrusive as possible, the proposed structure comes out to 20 feet six inches tall.

The Town of Clarkdale Zoning Code specifies in Section 4-1, A.1.f., that accessory structures, if permitted in a district, are approved, provided:

“They do not exceed fifteen (15) feet in height.”

The applicant is before the Board tonight seeking a five foot six inch variance from Section 4-1, A.1.f. of the Town of Clarkdale Zoning Code.

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The property is located in the Rio Vista subdivision with R1, Single Family Residential zoning. This zoning allows for home building height to be 2 ½ stories, not to exceed 35 feet. Accessory structures are permitted in this zoning district.

Mr. Herndon has submitted letters which he has circulated to his neighbors indicating the intent of the two story accessory structure and signatures of the neighbors indicating that they do not object to his proposed plans.

Staff notified the surrounding property owners regarding this request however, as of May 21, 2008, no comments have been received.

Staff Comments:

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:

SPECIAL CIRCUMSTANCES, UNDUE HARDSHIP, PUBLIC HEALTH- SAFETY & WELFARE, ADEQUATE FINANCIAL RETURN, SELF-IMPOSED SPECIAL CIRCUMSTANCES, USE VARIANCE.

Applicant Presentation: Thomas Herndon, Applicant, introduced himself to the Board Members and explained the reasons he was seeking this variance request. He needs the room as his home is very small. He received a pool table a few years ago; he restores pinball machines and does woodworking with his son. His fiancée’ needs to get the parking ability back to their carport, as she works at the hospital and in the winter, scraping off windshields can detain her in getting to work in a timely manner. The proposal he brought to the Board is the only feasible location to build on the property according to him. He kept the height as low as possible. He provided signed letters from neighbors stating their approval of his request. Several of them are here tonight to support him.

Invite Public to Speak: **John Falcha, 145 Zuni Drive**, stated he would be the first one to complain if the height variance request would pose a problem to the neighbors. There are no obtrusions to my site line. I have on my lot line 60-75 feet tall trees. I like Tom’s design and may consider something similar down the line. I am providing to the Board a picture to show there are no problems with my view. **(THIS WAS MARKED AS EXHIBIT “A” BY THE BOARD AND WILL BE PLACED IN MR. HERNDON’S FILE).**

Billy Rowland, 135 Western Avenue, stated he has no objections at all to Tom's variance request. This creates no obstruction at all in my view line. The applicant is directly behind my property.

Sandy Nevel, 149 Zuni Drive, stated she lives at the end of the street. Tom's property is always kept lovely. He helps all the neighbors and I have no objections or problems with his variance request. Tom's home is a great addition to the neighborhood.

Close Public Hearing: Chairperson Simgen motioned to close the Public Hearing. Board Member Connors seconded the motion. The motion passed unanimously.

AGENDA ITEM: CONSIDERATION AND POSSIBLE ACTION: Variance Request, ZV-2007-9, from Thomas Herndon, for the property located at 139 Zuni Drive, Parcel #400-04-009. The request is for a variance to allow for an accessory structure to exceed fifteen (15) feet in height.

-Questions may be directed to Staff/Applicant: Following are responses to questions posed by the Board.

- It was asked of Staff would this 5'6" variance be setting a precedent in that area. Staff was not aware of any variance brought before the Board that has been approved.
- The Building Official pointed out to the Board Members, the decision tonight is based on this application request only and is to be judged on its' own merit.
- Applicant explained to the Board where the driveway is on the property using the drawings that were provided in the Board packets.
- The setbacks were pointed out by the Staff.
- Applicant explained the leech fields (on his drawings) need to be kept accessible. If large equipment needed to gain access to the back yard, for example, septic to be pumped, this area (indicated on his drawings), needed to be kept open.
- Applicant's septic tank and lines will not need to be upgraded with this addition/request per the report from the County. (Board Members did not receive this report to look at).
- Applicant explained all the areas that he could "not" build on referencing his drawings provided.

-Chair may request a motion and a second: None.

-Discussion: The Board Members discussed other alternatives that may apply to one of the six criteria they base their decision on. The applicant stated "Special Circumstances" applies to his variance request due to his leech field location, the sharp drop off to the side of his property (which falls down to the railroad track) and wanting to keep the accessibility to his backyard.

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The Board Members stated they were having a difficult time trying to see this request falling under the “Special Circumstances” criteria. The “Undue Hardship” criteria was looked at, but felt the request did not meet this criteria either. They felt the applicant did not provide them with enough reasons to be able to categorize which “criteria” to make a decision upon.

AGENDA ITEM: ACTION: Board Member Prud’homme-Bauer motioned to deny the Variance Request, ZV-2007-9, from Thomas A. Herndon for the property located at 139 Zuni Drive, Parcel # 400-04-009 based on the request not meeting any criteria of the six standards the Board must follow. Chairperson Simgen seconded the motion. The motion did not pass due to a split decision, 2 in favor, 2 opposed. Board Member Prud’homme-Bauer and Chairperson Simgen were in favor of denying the request and Board Member Conners and Vice Chairperson Daniels were opposed to denying the request. This Variance request will come back to the Board Members at their regular scheduled meeting in June.

AGENDA ITEM: PUBLIC HEARING: Variance Request, ZV-2007-10, from Titan Trucking for the property located at 1151 Hwy 89-A, Parcel #406-26-313A. The request is to allow above ground storage of bulk inflammable liquids.

-Open Public Hearing: Chairperson Simgen motioned to open the public hearing. Board Member Conners seconded the motion. The motion passed unanimously.

-Staff Report:

Background:

Mr. Barak Speed, the applicant and owner of 1151 Hwy 89A, would like to place an above ground unit to store bulk inflammable liquids on his property. According to the plans submitted, Mr. Speed would utilize a 10,000 gallon above ground storage tank 6 feet from the side property line and 31 feet from the front property line which will hold ultra low sulfur diesel fuel. The applicant will also construct a concrete floor and masonry walls sealed with fuel resistance lining material to enclose the tank on all sides.

This project is located in the Commercial Zoned district which requires a Conditional Use Permit to store inflammable materials below ground. In order to store inflammable liquids above ground, **a variance is required prior to submitting for a Conditional Use Permit.**

The applicant is before the Board to request a variance that seeks relief from Section 3-11C.5 of the Zoning Code of the Town of Clarkdale to allow above ground storage of bulk inflammable liquids.

Staff has notified the surrounding property owners regarding this request. As of May 22, 2008 staff has only received one comment by a surrounding property owner. Mrs. Moscaritolo’s property, APN 406-26-001C, is located two parcels to the north of the applicant’s her letter/comments are included in your packet.

Staff Comments:

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:

SPECIAL CIRCUMSTANCES, UNDUE HARDSHIP, PUBLIC HEALTH-SAFETY & WELFARE, ADEQUATE FINANCIAL RETURN, SELF-IMPOSED SPECIAL CIRCUMSTANCES, USE VARIANCE.

Applicant Presentation: Joe Spence, Director of Operations-Titan Trucking, explained the dangerous situation where they currently refuel in Cottonwood. They wish to maintain their safety records standards. The Town of Clarkdale Fire Department looked at maps Titan provided them and did an onsite visit. The Fire Department felt for emergency pruposes and maintenance accessibility the plans are acceptable. The plan will be the installation of a double walled 10,000 gallon above ground tank constructed of carbon steel. We expect to receive fuel deliveries of 7,500 gallons approximately every three weeks. The only flammable fuels stored at our location are ultra low sulphur diesel fuel. The containment shall be construced of a concrete floor and masonry walls sealed with fuel resistant lining material. The tank and building materials will meet local and ADEQ standards. The Titan trucks are well maintained and haul sand and gravel.

Invite Public to Speak: None.

Close Public Hearing: Chairperson Simgen motioned to close the Public Hearing. Vice Chairperson Daniels seconded the motion. The motion passed unanimously.

AGENDA ITEM: CONSIDERATION AND POSSIBLE ACTION: Variance Request, ZV-2007-10, from Titan Trucking for the property located at 1151 Hwy 89-A, Parcel #406-26-313A. The request is to allow above ground storage of bulk inflammable liquids.

-Questions may be directed to Staff/Applicant: Following are responses to questions posed by the Board.

- Titan shares the driveway with Olsen Grain.
- The Building Official stated the Fire Department approved conceptually what the applicant is proposing.
- The material storage tank will be 34 feet from the property line.
- The new 89-A will not be any closer to the property than it currently is.
- ADOT standards have been met.
- The chain link fence remains, with a block wall to be around the tank.
- The pumping station will be away from the roadway.
- The height of the structure will be a little over 8 feet tall.
- The slab base will meet standards in order to support the tank.
- Olsen Grain's propane tank is over 100 feet away.
- Titan's MSDS states a rating of "2" for low ultra sulphur diesel.
- The Building Official stated this application meets the Town's Zoning Code.

-Chair may request a motion and a second: None.

-Discussion:

- It was re-verified that an "above ground" vs, "below ground" storage tank is the reason for this variance request this evening.
- Above ground storage is safer than underground.
- All the safety concerns of the applicant seem to be met as it applies to this request and type of material being stored in their tank.

AGENDA ITEM: ACTION: Vice Chairperson Daniels motioned to approve the Variance Request, ZV-2007-10, from Titan Trucking, for the property located at 1151 Hwy 89-A, Parcel 406-26-313A based on Public Health, Safety and Welfare. Board Member Conners seconded the motion. The motioned passed unanimously.

AGENDA ITEM: CONSIDERATION AND POSSIBLE ACTION: Board of Adjustment Meeting Location Change to the Clark Memorial Library, 39 N. Ninth Street, starting June 25th through August 27, 2008. Board Member Prud'homme-Bauer motioned to change the Regular Meetings from the Men's Lounge of the Clark Memorial Clubhouse to the Clark Memorial Library, 39 N. Ninth Street, starting June 25th through August 27, 2008. Board Member Conners seconded the motion. The motion passed unanimously.

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AGENDA ITEM: **FUTURE AGENDA ITEMS:** Thomas Herndon, ZV-2007-9, 139 Zuni Drive.

AGENDA ITEM: **ADJOURNMENT:** Vice Chairperson Daniels motioned to adjourn the meeting. Board Member Prud'homme-Bauer seconded the motion. The motion passed unanimously. The meeting adjourned at 7:30 p.m.

APPROVED BY:

SUBMITTED BY:

Anita Simgen
Chairperson

Vicki McReynolds
Administrative Assistant II