

BOARD OF ADJUSTMENT

June 25, 2008

MINUTES OF A REGULAR MEETING OF THE BOARD OF ADJUSTMENT OF THE TOWN OF CLARKDALE HELD WEDNESDAY, JUNE 25, 2008, IN THE CLARK MEMORIAL LIBRARY, 39 N. NINTH STREET, CLARKDALE, AZ.

A **Regular** Meeting of the Board of Adjustment of the Town of Clarkdale was held on Wednesday, June 25, 2008, at 6:00 p.m. in the Clark Memorial Library.

Board of Adjustment:

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

Staff:

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

Others in Attendance: Thomas Herndon- (Applicant).

AGENDA ITEM: CALL TO ORDER: The Vice 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 May 28, 2008. Board Member Prud-homme-Bauer motioned to approve the Regular Meeting Minutes of May 28, 2008. Board Member Connors seconded the motion. The motion passed unanimously.

AGENDA ITEM: REPORTS:

Chairperson's Report: None.

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.

OLD BUSINESS

AGENDA ITEM: RECONSIDERATION OF: 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.

Staff Report:

Background:

Mr. Thomas Herndon, the applicant and owner of 139 Zuni Drive, has previously submitted a variance request to construct a detached accessory structure on his property. According to the plans submitted, Mr. Herndon wanted to build a two story detached accessory structure that would serve as a workshop, hobby and storage area. Although Mr. Herndon opted to go with a flat roof plan in order to keep the building as unobtrusive as possible, the proposed structure still came 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 came before the Board seeking a five foot six inch variance from Section 4-1, A.1.f. of the Town of Clarkdale Zoning Code.

After much deliberation at the previous meeting and with more questions asked by the board members, the applicant was asked to come back to the board and present additional information for their review. The applicant agreed and the board tabled the item to tonight’s meeting.

On June 17, 2008 staff contacted Mr. Herndon to ask him to submit any supporting materials so that they could be forwarded to the board in their packets. The applicant stated he had nothing further to submit.

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:

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 it's shape, size, topography, location or surroundings and may not be related to the personal circumstances of the property owner or applicant.
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.
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.
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.
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.
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: Thomas Herndon, Applicant.

- The applicant showed the Board Members some pictures he had taken of his property.
- The driveway, access to the back, leech line, the baseball field area.
- He said his proposal is lower than his neighbors due to the slope of the land.
- Applicant said with the 15 feet rule, what is the intent of the law regarding obstructing anyone's views? He wonders how his application obstructs anyone else's views.

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

- Applicant gave more detail on his pictures he brought explaining his yard.

-Discussion:

- The Board Members stated they have to follow "the criteria" to base their decisions upon and referred to the Staff Report outlining them.
- The Board had hoped the applicant would have presented additional information this evening to assist in making a decision, this being the reason the meeting was carried over to this month.
- The Board Members felt the application process was clear to the applicant and he was aware of the criteria needed for them to base their decision.

AGENDA ITEM: ACTION: Board Member Prud'homme-Bauer motioned to approve the Variance Request, ZV-2007-9, from Thomas A. Herndon for the property located at 139 Zuni Drive, Parcel # 400-04-009, for a variance to allow an accessory structure to exceed fifteen (15) feet in height. Board Member Connors seconded the motion. "Ayes" were zero, the "no" were three. The motion failed.

AGENDA ITEM: FUTURE AGENDA ITEMS:

- Rules on Making Motions

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 6:40 p.m.

APPROVED BY:

SUBMITTED BY:

Anita Simgen
Chairperson

Vicki McReynolds
Administrative Assistant II