

MINUTES OF A SPECIAL MEETING OF THE BOARD OF ADJUSTMENT OF THE TOWN OF CLARKDALE HELD WEDNESDAY, JUNE 10, 2009, IN THE MEN'S LOUNGE OF THE CLARK MEMORIAL CLUBHOUSE, 19 N. NINTH STREET, CLARKDALE, AZ.

A **SPECIAL** Meeting of the Board of Adjustment of the Town of Clarkdale was held on Wednesday, June 10, 2009, 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	Larry Conners	Present
Board Members	Robyn Prud'homme-Bauer	Present
	Karen Daniels	Present
	Jack VanWye	Present

Staff:

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

Others in Attendance: Mr. Aaron Midkiff.

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 Special Meeting Minutes of April 15, 2009. Board Member Prud'homme Bauer motioned to approve the Special Meeting Minutes of April 15, 2009. Board Member VanWye seconded the motion. The motion passed unanimously.

AGENDA ITEM: REPORTS:

Chairperson's Report: None.

Staff Report: The Planner II stated the Town is partnering with the 2010 Census Bureau. There will be a representative from the Bureau at the June 23rd Town Council Meeting to talk about it. The stress will be on the "awareness" and importance for people to respond. There is the hope to establish a site for the public to assist them regarding the 2010 Census.

The Building Official shared with the Board Members that the Verde Valley is trying to get together a Board of Appeals group. If this happens, it legally puts the Board of

Adjustment on firmer ground as it relates to the National Building Codes. The municipalities in general are in favor of this Board being formulated.

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: PUBLIC HEARING: Variance Request ZV-090111, for Yavapai County Assessor's Parcel #400-03-127A, 612 Third North Street, to allow for building an accessory structure on the property line and within the required three (3) foot property line setback. *Applicant: Mr. Aaron Midkiff.*

-**OPEN Public Hearing:** The Chairperson opened the Public Hearing.

-**Staff Report:**

Background:

On April 15, 2009 Mr. Aaron Midkiff came before the Board for a variance request to allow for building an accessory structure on his property line. At that meeting staff was directed to contact the Utilities Director to have him locate where the sewer main runs across the applicant's property, see Exhibit A. According to the information provided by the Utilities Department, a portion of the sewer main runs under the applicant's home and across the property, as it does on other properties in the area.

Background from previous meeting held April 15, 2009:

Mr. Aaron Midkiff, the applicant and owner of 612 Third North Street, would like to construct a detached accessory structure on his property. The property is located in the Manufactured Home Residential Alternate (R4A) zoning district. According to the plans submitted, the detached accessory structure would serve as a storage shed. Mr. Midkiff would like to utilize a 20 foot portion of the current six (6) foot high masonry wall that he has recently constructed between his and his neighbor's property as the back wall of the shed. His plans indicate that he will increase the height of the masonry wall by one (1) foot and four (4) inches for 20 feet along the top of the masonry wall to utilize it as the back wall of the shed. The proposed structure's greatest height comes out to seven (7) feet four (4) inches with the dimensions being four (4) feet wide by 20 feet long (see plans submitted by applicant).

**BOARD OF ADJUSTMENT
JUNE 10, 2009**

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

“They shall be distant at least three (3) feet from adjoining lot lines with exception of zone R1A, where they may be distant at zero (0) feet from all alley lines.”

The applicant is before the Board tonight seeking relief of Section 4-1A.c. of the Zoning Code to allow him to build a shed on his property line and within the required three (3) foot setback.

Since the applicant wishes to increase the height of the masonry wall that currently serves as a fence, staff would like to inform the Board that the Zoning Code Section 4-8C. states:

“Maximum fence height in residential districts may not exceed six (6) feet, except at gated entryways where pillars or posts and a single crossbar only, may exceed such six (6) foot height.”

As required, staff has informed property owners within 300 feet of the property seeking the variance. As of April 8th no comments were 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:

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.

**BOARD OF ADJUSTMENT
JUNE 10, 2009**

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."

-Invite Public to speak: None.

-CLOSE Public Hearing: The Chairperson closed the Public Hearing.

AGENDA ITEM: CONSIDERATION & POSSIBLE ACTION: Variance Request ZV-090111, for Yavapai County Assessor's Parcel #400-03-127A, 612 Third North Street, to allow for building an accessory structure on the property line and within the required three (3) foot property line setback. *Applicant: Mr. Aaron Midkiff.*

-Questions May Be Directed to Staff / Applicant:

The following are responses to questions from the Board Members:

- Staff presented to the Board Members an additional letter submitted by a neighbor of the Applicant. The letter stated they had no problem with Mr. Midkiff's variance request.

- The Building Official stated to the Board Members that Exhibit A outlining where the sewer runs does not impact the decision made this evening.

- The Applicant stated the slope of the roof would slope into his property.
- The trailer along side applicant's home is tied in to a cleanout.
- The slope of the property is approximately 50 degrees.

**BOARD OF ADJUSTMENT
JUNE 10, 2009**

- The area underneath the deck was looked at by the Applicant as an option, but if he took the deck off and utilized the space underneath, the height would be wrong.
- There is no easement to the existing sewer line.

-Discussion:

-The Chairperson stated he reviewed all the information provided and Exhibit A and felt the request could fall under the Undue Hardship Criteria as the Applicant has no place else on the property for the shed. The only alternative is to lay his things on the ground.

-Board Member Prud'homme Bauer stated we have a Property Maintenance Code in the Town of Clarkdale and just placing things on the ground would possibly be a violation of this code. Board Member Prud'homme Bauer's concern is the 7 ½ feet request.

-The Applicant responded that he could work with a 6 foot height stipulation.

-ACTION: The Chairperson moved to approve the variance Request ZV-090111, for Yavapai County Assessor's Parcel #400-03-127A, 612 Third North Street, to allow an accessory structure on the property line and within the required three (3) foot property line setback, with the condition the structure will not exceed 6 feet in height, measured from the grade of the applicant's property, at the point of where the proposed shed is located. The variance request falls under the Public Health, Safety and Welfare Criteria. Board Member Prud'homme Bauer seconded the motion. The motion passed unanimously.

AGENDA ITEM: DISCUSSION & POSSIBLE ACTION: Board of Adjustment Meeting Location Change to the Library Building located at 39 N. Ninth Street, Clarkdale, AZ, for the summer months of July and August due to air-conditioning availability. (The room will be set up to handle applicant and public participation).

-ACTION: Board Member Prud'homme Bauer motioned to approve the Board of Adjustment Meeting Location Change to the Library Building located at 39 N. Ninth Street, Clarkdale, AZ, for the summer months of July and August. Board Member VanWye seconded the motion. The motion passed unanimously.

AGENDA ITEM: FUTURE AGENDA ITEMS:

-None at this time.

**BOARD OF ADJUSTMENT
JUNE 10, 2009**

AGENDA ITEM: ADJOURNMENT: Board Member Prud'homme Bauer motioned to adjourn the meeting. Board Member VanWye seconded the motion. The motion passed unanimously. The meeting adjourned at 6:50 p.m.

APPROVED BY:

SUBMITTED BY:

Lee Daniels
Chairperson

Vicki McReynolds
Administrative Assistant II