

**BOARD OF ADJUSTMENT  
REGULAR MEETING  
JUNE 8, 2011**

**CALL TO ORDER**

The June 8, 2011, regular meeting of the Lake Havasu City Board of Adjustment was called to order by Vice Chairman Fein at 6:00 p.m.

**ROLL CALL**

Members Present: Charles Fein, Diane Klostermeier, Edward Gagnon, Paula Fowler, Sarah Markham, Bruno Heise (alt), Sergi Heideman (alt)

Members Absent: Donald Bergen, Tony Simonis (exc)

Staff Present: Stuart Schmeling, Senior Planner  
Maria LaFrano, Recording Secretary

**MINUTES**

Mrs. Fowler made a motion to approve the minutes of the April 27, 2011, as written. The motion was seconded by Mr. Gagnon and carried unanimously.

**CORRESPONDENCE AND ANNOUNCEMENTS**

Mr. Schmeling stated that on May 24, 2011 the Council announced the vacancies for the Board of Adjustment. Just as a reminder, there are three Board terms that expire on July 1, 2011, which include Mr. Bergen, Mrs. Fowler, and Mr. Gagnon. If the Board members want to re-apply, they must submit a letter of interest to the City Clerk's office and the Council will reappoint or appoint members to those positions either the last meeting in June or the first meeting in July. He reminded the alternates that they also have the ability to apply for those permanent positions as well.

Mr. Fein asked if there are no replacements, do the sitting members stay until new ones are selected. Mr. Schmeling stated the active members will stay active until the Council appoints someone. Staff has experienced in the past that the Council will announce for a 30-day period and no applications will be received. In that instance staff has to re-announce for another 30 days. Mr. Bergen is not eligible for re-election as he has already served two consecutive terms. When questioned by Mr. Fein, Mr. Schmeling stated that even though the Board no longer has by-laws, the Council still knows what regulations the Board follows and will appoint members to the Board. Mrs. Fowler asked if the members will be notified if they are re-appointed. Mr. Schmeling stated that at the Council meeting they do a numerical item so that a name is not released until appointed; however, staff will send out a congratulations letter for the reappointment. Mrs. Fowler and Mr. Gagnon asked if staff has received their email of intent and Mr. Schmeling agreed.

**PUBLIC HEARING**

**11-01300015 – TRACT 2215, BLOCK 7, LOT 4; 3111 ALADDIN DRIVE. A REQUEST FOR A ZONING VARIANCE TO THE LAKE HAVASU CITY DEVELOPMENT CODE SECTION 14.08.040 TABLE 2-3 TO ALLOW A PROPOSED GARAGE TO ENCROACH 5 FEET INTO THE REQUIRED 25-FOOT FRONT YARD SETBACK. KEN PAIDER, OWNER/SCANDIA CONSTRUCTION, APPLICANT.**

Mr. Schmeling stated the property located at 3111 Aladdin Drive is completely surrounded by R1 residential. There is a parcel immediately adjacent zoned P1 which is a City parcel for public purpose that could be anything from a park to a water tank. The lot is on a curve and the frontage of the lot is just at or above 200 feet in length. The lot below the subject property has been developed at a pad elevation of 1006 feet. The western property line for the subject property is 1007 with the top elevation at 1039. There is a 32-foot elevation change. The property to the east has been developed at 1057, another 18 feet higher than the top of the subject parcel.

The lot has been graded and the pad is approximately 5,100 square feet. The applicant has adapted the style of the home to try to meet the conditions of the lot. The owner is requesting a variance to allow the corner of a proposed garage to project into the 25-foot front setback. The code has recently changed with regard to front yard setbacks allowing the residential portion of the home to be located at 20 feet instead of 25 feet. The reason the applicant has to ask for a 5-foot variance is the encroachment in this case is part of the garage, not the livable portion of the house. Had it been the portion of the house, it would meet the code standard.

Mr. Fein asked if the lot was previously cut and graded to code and if the applicant was stuck with the current condition. Mr. Schmeling stated the property was graded by the previous owner. He said the applicant could go back and re-grade the property. Current grading code states you go by the center of the street at the highest elevation of the property. Technically at the 1039 elevation, staff could give the applicant a 101 fill lot where he could fill up to 1040 elevation and build at that elevation, but it would require a 45-foot retaining wall along the property line to fill the property up to the top; obviously there is some expense with that. Because of the way the property was initially graded, the applicant is trying to make do with the existing condition in the best possible way.

Mr. Fein asked if the RV carport is butting up against the dropping property. Mr. Schmeling stated the property is actually rising at that point. Mr. Schmeling stated the site plan shown is what the applicant proposes to build.

Mr. Gagnon asked for clarification as the tract map shows the street name as Mirage Drive, not Aladdin Drive. Mr. Schmeling stated that on several original plats, there were different names but since then some street names have changed. The subject property is on Aladdin Drive.

Mrs. Klostermeier stated when she went out to the site she could see the difficulty in trying to set this property up. Up on the hill there seems to be vehicle track marks and she wants to know if there is an easement along that side. Mr. Schmeling stated there is a public utility easement along the top and back of the property. Mrs. Klostermeier asked if the applicant was granted a 5-foot variance, would the utility companies still

have access to that area. Mr. Schmeling stated the utility companies will have access to that area whether the applicant develops the site or not.

Mr. Carl Nielsen, Scandia Construction, stated he has been in town for 35 years and a builder for 30 years. He said he has built a lot of houses and this one has been the most challenging one. He has worked with this potential customer for a year and a half now to get everything working. The construction tracks seen on the easement is due to a retaining wall being built along the easement. A little retaining wall is being built along the right front of the property where the carport is. The rest of the lot is being utilized as best as can be. The owner would like to put a spa and a swimming pool in the back and that is why the house is being pushed forward. The applicant is not encroaching on view or driveway length.

When Mrs. Fowler questioned why the house can not be shifted to eliminate the five-foot variance, Mr. Nielsen stated they tried shifting it around but feel they utilized the land the best way they could.

When questioned by Mr. Gagnon, Mr. Nielsen stated the auto portion of the garage is 24 feet deep and the boat garage is 36 feet deep. The total garage is 800 square feet and a normal garage is bigger these days.

Mr. Fein opened the meeting to the public. No one spoke. Mr. Fein closed the meeting to the public.

Mr. Schmeling stated that Staff finds that 1) the topography (32 feet of elevation change along the 200 feet of lot frontage) is a special circumstance applicable to the subject property, which strict application of the zoning ordinance will deprive this property of privileges enjoyed by other property in the same zoning classification. Although the lot at 19,542 square feet is larger than normal, the topography has limited the size and configuration of the building pad. The pad is narrow and linear and this situation requires special consideration to assure proper drainage and to accommodate reasonable development of the property. The proposed house at 1,660 square feet and garage at 878 square feet are not exceedingly large for the area or for R-1 zoned lots in general. Other properties in the area, all zoned R-1, enjoy lot configurations and slopes different than the subject property which allow them to develop their properties within the strict application of the Development Code. As a result, in order to reasonably develop the lot, a variance is appropriate. 2. Staff finds that the special circumstance applicable to the subject property is not self-imposed. 3. Staff finds the front yard setback request of 20 feet for the corner of the garage is consistent with the goals and policies of the General Plan. The proposed variance does not constitute a grant of special privileges inconsistent with the limitations on other properties and will not be materially detrimental to the public convenience, health, interest, safety, or welfare of the city, or injurious to the property or improvements in the vicinity and zoning district in which the property is located.

Based on the findings listed above the Development Review Committee recommends that land action 11-01300015 be approved with the following conditions:

1. The encroachment approved by this land action applies to the proposed house plan per the submitted site plan and does not apply to any additional structures.
2. The owner or applicant obtain all permits necessary and follow all city adopted codes for the construction of the proposed home.
3. The owner or applicant must submit plans for and obtain permits as required within one year of the approval of the requested variance.

Mr. Gagnon asked if the neighboring properties were notified of the variance requested. Mr. Schmeling stated property owners within 300 feet were notified and staff did not receive any written or verbal objections.

Mr. Gagnon made a motion to approve variance request 11-01300015 because the strict application of the City Code denies the property of privileges enjoyed by others in the vicinity and under the identical zoning district due to the extreme topography of the property, which is not self-imposed by the property owner and conforms to the required findings of Lake Havasu City Code Section 14.44.060(G). The motion was seconded by Mrs. Fowler and carried unanimously on a voice vote.

#### **CALL TO PUBLIC**

None.

#### **FUTURE MEETING**

**Mr. Schmeling stated Mrs. Garry will summarize amendments to the code at the next meeting as well as make a presentation to address Mrs. Fowler's question regarding Ex parte communication. The members will be notified of the next meeting date.**

Mr. Gagnon stated he will be out of town for the months of July and August and requested to be excused if meetings are scheduled during that timeframe. He also mentioned he could be reached via telephone if needed.

Mrs. Klostermeier stated she will be gone the first two weeks in July. She also suggested the Board elections be held off until more people that have been on the Board are present, as a person has to serve on the Board for at least a year in order to be voted in.

#### **ADJOURNMENT**

Mrs. Fowler made a motion to adjourn which was seconded by Mr. Gagnon. The meeting was adjourned at 6:30 p.m.

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Chuck Fein, Vice-Chairman

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Maria LaFrano, Recording Secretary