

RESULTS OF PUBLIC MEETING BOARD OF ADJUSTMENT

Pursuant to A.R.S. Section 38-431.02, notice was hereby given to the members of the **BOARD OF ADJUSTMENT** and to the general public, that the **BOARD OF ADJUSTMENT** held a meeting open to public on **Thursday, June 2, 2022 at 12:00 p.m.**

Per the most recent guidelines from the federal government, the Board of Adjustment was held virtually, via a video conferencing platform.

The results of the meeting were as follows:

RESULTS

**Approved A. Approval of Minutes – April 7, 2022
Approval of Minutes – May 5, 2022**

(Ammon/Knight - Vote of 7-0).

Approved B. Approval of Agenda – June 2

(Beuerlein/Ammon - Vote of 7-0).

C. Requests for Continuance and/or Withdrawal

Continued 1. Application #: **ZA-627-21-6 (Continued from May 5, 2022)**
Existing Zoning: RE-24 ACSPD
Location: 5035 East Lafayette Boulevard
Quarter Section: 17-39(H11)
Proposal: Variance to reduce the rear yard setback (southwest) to 4 feet. Minimum 30 feet required.
Ordinance Sections: 606.B.4
Applicant: Troy and Jamey Zurawski
Representative: Dana Burkhardt, HUB Planning + Urban Design
Owner: Troy and Jamey Zurawski
Appellant: Troy and Jamey Zurawski

Continued to July 7, 2022.

D. Items for Consideration

**Overtured
ZAHO with
stipulations**

2. Application #: **ZA-306-21-3 (SIGN) (Continued from December 5, 2021)**
- Existing Zoning: A-1
Location: 9841 North Black Canyon Highway
Quarter Section: 28-23(K7)
Proposal: **1) Variance to reduce spacing between off-premise signs to 640 feet. Minimum 1,000 foot spacing required.
2) Use permit to construct two digital faces on a new off-premise sign. Use permit required.**
- Ordinance Sections: 705.2.B.2, 705.2.E.3
Applicant: Wendy Riddell, Berry Riddell, LLC
Representative: Wendy Riddell, Berry Riddell, LLC
Owner: Jeffrey Melichar
Appellant: Wendy Riddell, Berry Riddell, LLC

Overtured the Zoning Adjustment Hearing Officer's decision and approved the variance and use permit with the following stipulations:

Stipulations:

- 1) Install a Planning and Development Department design-approved, decorative pole cover on the new freeway off-premise sign. Any access ladder, if included, shall be on the north or east side of the pole cover and concealed from northbound freeway traffic.***
- 2) The off-premise sign shall be located a minimum of 5 feet to the east of the proposed location to avoid visual impacts with the existing on-premise sign.***
- 3) The applicant shall have 12 months to apply and pay for permits for the subject sign.***

(Beuerlein/Ammon - Vote of 7-0).

**#1
Overtured
ZAHO**

**#2 Upheld
ZAHO with
stipulations**

3. Application #: **ZA-9-22-6 (SIGN) (Continued from May 5, 2022)**
- Existing Zoning: C-2
Location: 3538 East Indian School Road
Quarter Section: 17-35(H10)
Proposal: **1) Use permit to rebuild a nonconforming sign off-premise sign to 35 feet in height and 302 square feet in area. Use Permit required.**

- 2) Use permit to reduce spacing from residential use to 223 feet. Use Permit required.

Ordinance Sections: 705.2.G.5, 705.2.A.5
Applicant: Jacob Zonn, Becker Boards Small, LLC
Representative: Cameron Artigue, Gammage & Burnham
Owner: Five Chans, LLC
Appellant: Michael Zimmerman, Berry Riddell, LLC

Overtured the Zoning Adjustment Hearing Officer's decision for Item #1 and denied as filed and approved to rebuild a static single face sign facing west and the sign face that shall not exceed a maximum of 238 square feet.

Upheld the Zoning Adjustment Hearing Officer's decision for Item #2 and approved the use permit with the following stipulations:

Stipulations:

- 1) ***The rebuild of the sign is approved for a single sign face (west) and maximum height of 27 feet.***
- 2) ***Install a Planning and Development Department design-approved, decorative pole cover on the rebuilt off-premise sign. Any access ladder, if included, shall be on the north or west side of the pole cover and concealed from westbound traffic.***
- 3) ***All sign illumination shall be extinguished daily from 10:00 PM until sunrise.***
- 4) ***Sign illumination shall be controlled by an adjustable dimmer. The initial luminance (brightness) setting on the dimmer shall be at the same NIT level as existing illumination and in no case greater than 100 NITs maximum.***
- 5) ***The rear of the sign face shall be coated in a graffiti-resistant material approved by the Planning and Development Department.***
- 6) ***The applicant shall have 12 months to apply and pay for permits.~~for the rebuilt, building mounted sign.~~***

(Ammon/Beuerlein - Vote of 7-0).

**Upheld
ZAHO with
additional
stipulations**

4. Application #: **ZA-705-21-7 (Continued from May 5, 2022)**
Existing Zoning: R-5 RI
Location: 821 West McKinley Street
Quarter Section: 11-26(F8)

Proposal:	1) Variance to reduce the required front yard setback (north) to 10 feet. Minimum 20 feet required. 2) Variance to reduce the rear (south) building setback to 5 feet. Minimum 15 feet required. 3) Variance to reduce the required rear yard (south) landscape setback to 0 feet. Minimum 5 feet required. 4) Variance to reduce the landscape setback adjacent to public street (9th Avenue) to 0 feet. Minimum 10 feet required. 5) Variance to reduce east side landscape setback to 0 feet. Minimum 5 feet required. 6) Variance to allow maneuvering in the right-of-way. Maneuvering must be located on private property. 7) Variance to reduce the required open space to 0 percent. Minimum 5 percent required. 8) Variance to reduce the minimum required width of open spaces to 0 feet. Minimum 20 feet required. 9) Variance to reduce the required parking to 7 spaces. Minimum 9 spaces required.
Ordinance Sections:	618.B.Table B, 618.B.Table B, 703.B.3.b.3, 703.B.3.a, 703.B.3.b.3, 702.A.1.b, 703.B.4.a.1, 703.B.4.a.2, 702.C.Table
Applicant:	Taylor C. Earl, Earl and Curley, PC
Representative:	Taylor C. Earl, Earl and Curley, PC
Owner:	Michael and Mary E. Hall, Mah / Meh Trust
Appellant:	Charles B. Butzine

Upheld the Zoning Adjustment Hearing Officer's decision and approved the variances with additional stipulations:

Stipulations:

- 1) ***18 months to apply and pay for building permits.***
- 2) ***General conformance to the site plan signed and dated by the Hearing Officer on March 3, 2022, as it pertains to the subject variance requests.***

- 3) ***THE WINDOWS ON THE EAST SIDE, 2ND FLOOR OF UNIT F SHALL BE TRANSLUCENT FOR UP TO AT LEAST 48 INCHES FROM FINISHED FLOOR OF SECOND LEVEL.***
- 4) ***THE MAXIMUM HEIGHT OF THE BUILDING SHALL BE LIMITED TO 30 FEET.***

(Ammon/Cole - Vote of 5-2) (Eigo, Hill).

**Overtured
ZAHO with
stipulations**

5. Application #: **ZA-584-21-8 (Continued from May 5, 2022)**
- Existing Zoning: C-2 M-R TOD-1
- Location: 4415 East Monroe Street
- Quarter Section: 10-38(F11)
- Proposal: **1)** Use permit to allow a medical marijuana dispensary facility. Use permit required.
2) Variance to allow a medical marijuana dispensary facility within 5,280 feet (one mile) of another similar type of use. Minimum 5,280 feet of separation required.
3) Variance to allow a medical marijuana dispensary facility within 1,320 feet of a public park. Minimum 1,320 feet of separation required.
- Ordinance Sections: 623.D.124.a, 623.D.124.e, 623.D.124.g
- Applicant: Nick Labadie, Rose Law Group
- Representative: Nick Labadie, Rose Law Group
- Owner: 4415 EM, LLC
- Appellant: Lazarus & Silvyn, P.C. / Larry Lazarus

Overtured the Zoning Adjustment Hearing Officer's decision and approved the use permit and variances with the following stipulations:

Stipulations:

1. ***THE USE PERMIT SHALL BE REVIEWED WITHIN 365 DAYS OF THE ISSUANCE OF THE DISPENSARY CERTIFICATE FOR A MEDICAL MARIJUANA USE OR APPROVAL TO OPERATE THE CULTIVATION AND/OR INFUSION FROM THE ARIZONA DEPARTMENT OF HEALTH SERVICES.***
2. ***THE APPLICANT HAS 1 YEAR TO APPLY AND PAY FOR BUILDING PERMITS.***

3. **OBTAIN A CERTIFICATE FOR MEDICAL MARIJUANA USE FROM THE ARIZONA DEPARTMENT OF HEALTH SERVICES OR APPROVAL TO OPERATE. IF NO CERTIFICATE OR APPROVAL TO OPERATE IS GRANTED WITHIN 1 YEAR OF THE APPROVAL OF THIS VARIANCE/USE PERMIT, THE ZONING ADMINISTRATOR SHALL SCHEDULE A REVOCATION HEARING FOR THIS USE PERMIT.**
4. **THE APPLICANT SHALL SUBMIT A SECURITY PLAN PROVIDED TO THE ARIZONA DEPARTMENT OF HEALTH SERVICES TO THE PLANNING AND DEVELOPMENT DEPARTMENT.**
5. **THE APPLICANT SHALL NOTIFY IN WRITING THE AREA'S POLICE PRECINCT COMMANDER OF ESTABLISHING SUCH FACILITY. NOTICE OF THIS CONTACT SHALL BE SUBMITTED IN WRITING TO THE PLANNING AND DEVELOPMENT DEPARTMENT.**
6. **APPLICANT SHALL INSTALL AND MAINTAIN PER MANUFACTURER'S SPECIFICATIONS AN ODOR CONTROL SYSTEM WITHIN 1 YEAR OF TODAY'S HEARING. APPLICANT SHALL SUBMIT AN ODOR CONTROL PLAN IDENTIFYING CONTACT PERSON FOR ODOR COMPLAINTS TO THE PLANNING AND DEVELOPMENT DEPARTMENT.**
7. **APPLICANT SHALL NOTIFY THE PLANNING AND DEVELOPMENT DEPARTMENT IN WRITING WITHIN 30 DAYS OF WHEN THERE IS A CHANGE IN THE OPERATOR OR ENTITY'S NAME.**
8. **A COMPLETE APPLICATION FOR REVOCATION OF THE USE PERMIT (ZA-446-12-8) FOR THE PROPERTY LOCATED AT 14 SOUTH 41ST PLACE, INCLUDING ALL AUTHORIZATIONS FROM THE CURRENT OWNER, SHALL BE FILED WITHIN 30 DAYS OF THE ISSUANCE OF THE APPROVAL TO OPERATE ("ATO") FROM THE ARIZONA DEPARTMENT OF HEALTH SERVICES ("AZDHS") FOR THE NEW LOCATION AT 4415 EAST MONROE STREET. IF THE REVOCATION FOR ZA-446-12-8 DOES NOT OCCUR, THE PROPERTY OWNER/APPLICANT FOR 4415 EAST MONROE STREET SHALL COMPLETE REVOCATION OF ZA-584-21-8.**

(Cole/Beuerlein - Vote of 6-1) (Knight).

**Upheld
ZAHO**

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| 6. | Application #: | ZA-1-22-4 |
| | Existing Zoning: | R1-6 |
| | Location: | 1211 East Meadowbrook Avenue |

Quarter Section: 18-30(H9)
 Proposal: **1)** Variance to reduce the side yard setback (west) to 0 feet. Minimum 3 feet required.
2) Variance to reduce the rear yard (south) setback to 8 feet. Minimum 25 feet required.
 Ordinance Sections: 613.B.Table B, 613.B.Table B
 Applicant: Jesse and Marylou Torres
 Representative: Mark Horne, Degnan Law Group
 Owner: Jesse and Marylou Torres
 Appellant: Jesse Torres

Upheld the Zoning Adjustment Hearing Officer's decision and denied Item #1. Item #2 withdrawn.

(Eigo/Cole - Vote of 7-0).

**Overtured
ZAH0**

7. Application #: **ZA-717-21-1**
 Existing Zoning: C-2
 Location: 3313 West Greenway Road
 Quarter Section: 34-21(L6)
 Proposal: **1)** Variance to allow a tobacco oriented retailer to be located within 1,320 feet of a church. Minimum 1,320 feet separation required.
2) Variance to allow a tobacco oriented retailer to be located within 1,320 feet of a school. Minimum of 1,320 feet separation required.
3) Variance to allow a tobacco oriented retailer to be located within 1,320 feet of a park. Minimum of 1,320 feet separation required.
4) Variance to allow a tobacco oriented retailer within 1,320 feet of a dependent care facility. Minimum 1,320 feet of separation required.
 Ordinance Sections: 623.D.194.b, 623.D.194.b, 623.D.194.b, 623.D.194.b
 Applicant: Saif Qudsi, Phoenix Smoke Shop, LLC
 Representative: Joseph G. Urtuzuastegui III Es, Winsor Law Group, PLC
 Owner: Southwestern Holding, LLC
 Appellant: Joseph G. Urtuzuastegui III Es, Winsor Law Group, PLC

Overturned the Zoning Adjustment Hearing Officer's decision and approved the variances.

(Ammon/Knight - Vote of 6-1) (Beuerlein).

**Upheld
ZAHO**

8. Application #: **ZA-676-21-8 (SIGN)**
Existing Zoning: A-1
Location: 4615 East Elwood Street
Quarter Section: 5-38(E11)
Proposal: Variance to modify Stipulation #3 of ZA-647-19, regarding off-premise sign spacing, decreasing spacing to 647 feet and adding a second sign face. Minimum 1,000 feet of spacing required.

Ordinance Sections: 705.2.B.2
Applicant: Jacob Zonn, Becker Boards Small, LLC
Representative: Jacob Zonn, Becker Boards Small, LLC
Owner: HM Sky Harbor, LLC
Appellant: Jacob Zonn, Becker Boards Small, LLC

Upheld the Zoning Adjustment Hearing Officer's decision and denied the variance.

(Eigo/Hill - Vote of 6-0) (Beuerlein absent).

E. Other Business

- Updated** 9. Update on next Board of Adjustment agenda.
- Updated** 10. Update on pending appeals of the Board of Adjustment.
- No Action** 11. Q & A: Procedure and Process - Board of Adjustment case law.
- No Action** 12. The Board may vote to go into Executive Session pursuant to A.R.S Section 38-431.03.A.3. for the purpose of receiving legal advice regarding any of the above Items A-E.

Adjourned F. Adjournment

For further information, please call Julie Garcia in the Planning and Development Department at 602-495-7029 or contact us via electronic mail at pdd.boardofadjust@phoenix.gov. This electronic mail address will not accommodate zoning enforcement/violation complaints.

This publication can be made available in alternate format upon request. To request a reasonable accommodation, please contact Angie Holdsworth at 602-495-5622, TTY: Use 7-1-1.

June 2, 2022