

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, September 1, 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 – August 4, 2022

(Beuerlein/Hill - Vote of 5-0-1) (Ammon abstained, Knight absent).

Approved B. Approval of Agenda – September 1, 2022

(Ammon/Beuerlein - Vote of 6-0) (Knight absent).

C. Requests for Continuance and/or Withdrawal

Continued

1. Application #: **ZA-462-15-6 (1-Year Review)**
 Existing Zoning: C-2
 Location: 3934 and 3948 East Indian School Road
 Quarter Section: 17-36(H10)
 Proposal: **1) Use Permit to allow outdoor recreation uses. Use Permit required.**
 2) Use Permit to allow outdoor dining accessory to a restaurant. Use Permit required.
 3) Use Permit to allow outdoor alcoholic beverage consumption accessory to a restaurant. Use Permit required.
 4) Use Permit to allow outdoor music and entertainment accessory to a restaurant. Use Permit required.
 5) Use Permit to allow the display of merchandise outdoors. Use Permit required.

Ordinance Sections: 623.D.156.c, 623.D.156.c, 623.D.156.c,
623.D.156.c, 623.C.2
Applicant: 40th Street Developers, LLC
Representative: Taylor Earl, Earl & Curley
Owner: 40th Street Developers, LLC
Appellant: Wally Graham, Arcadia Osborn HOA

Continued to October 6, 2022.

D. Items for Consideration

**Overtured
ZAHO with
modified
stipulations**

2. Application #: **ZA-196-22-7**
Existing Zoning: C-3
Location: 2631 North 24th Drive
Quarter Section: 14-23(G7)
Proposal: Variance to reduce the streetscape
landscape setback (west) to 5 feet.
Average of 30 feet required, minimum 20
feet permitted for up to 50% of the
frontage.
Ordinance Sections: 623.E.4.e
Applicant: David Richert, Richert and Associates
Representative: David Richert, Richert and Associates
Owner: Arif Surmen, Phoenix 2633, LLC
Appellant: David Richert, Richert and Associates

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

Stipulations:

- 1. ~~The landscape setback along 24th Drive shall be no
less than 15-feet from the property line.~~***
***1.2. The new landscaping area shall include the street right-
of-way as well as the setback area.***
***2.3. Trees with a minimum caliper of 3-inches shall be
installed every 20 feet.***
***3.4. The final landscape plan shall be in accordance with
the requirements of the Phoenix Planning and
Development Department.***
4.3. 12-18 months to apply and pay for building permits.

(Ammon/Beuerlein - Vote of 6-0) (Knight absent).

**Overtured
ZAH0 with
stipulations**

3. Application #: **ZA-124-22-4**
Existing Zoning: R1-10 WSN SPD
Location: 505 East Missouri Avenue
Existing Zoning: R1-10 WSN SPD
Location: 505 East Missouri Avenue
Quarter Section: 19-28(H8)
Proposal: Variance to allow an over height wall (6 feet) in the required front yard (east) setback. Maximum 40 inches permitted.

Ordinance Sections: 703.A.2.a
Applicant: Steve Watson, True Performance Construction, Inc.

Representative: Nick Wood, Snell & Wilmer, LLP
Owner: John and Jane Doe
Appellant: Chris Colyer, Snell & Wilmer, LLP

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

Stipulations:

- 1. General conformance to the conceptual site plan date stamped August 18, 2022 (Page 5 of Appellant's packet) as to the location of any fences exceeding 40 inches along the 6th Street frontage and the Missouri Avenue frontage.***
- 2. No additional fences exceeding 40 inches to be constructed between the exterior wall of the residence and the right-of-way of 6th Street and Missouri Avenue, except those set forth in Stipulation #1.***
- 3. Any fence referred to in Stipulation #1 shall be limited to no greater than 6 feet in height.***
- 4. Shrubs, vines, and/or hedges are to be planted and maintained along the fences on the Missouri Avenue and 6th Street sides of the property where said fences are visible from the right-of-way.***
- 5. 18 months to apply and pay for building permits.***

(Ammon/Hill - Vote of 6-0) (Knight absent).

#1 Denied	4.	Application #:	ZA-253-22-3 (Continued from August 4, 2022)
#2 No Action Required		Existing Zoning:	C-22
		Location:	12401 North Cave Creek Road
		Quarter Section:	31-32(K9)
		Proposal:	1) Variance to allow the Zoning Administrator to hear an application concerning property upon which a previous application has been heard within a period of one year. Minimum one year required. 2) Variance to delete Stipulation No. 8 from ZA-564-19-3 regarding revocation. Variance required.
		Ordinance Sections:	307.A.15.d, 307.A.9
		Applicant:	Chris Fotopoulos, Cave Creek RE, LLC
		Representative:	Heather N. Dukes, Esq.
		Owner:	Chris Fotopoulos, Cave Creek RE, LLC

Item #1 denied, therefore no action required on Item #2.

(Cole/Beuerlein - Vote of 6-0) (Knight absent).

E. Other Business

Updated	5.	Update on next Board of Adjustment agenda.
Updated	6.	Update on pending appeals of the Board of Adjustment.
No Action	7.	Q & A: Procedure and Process - Board of Adjustment case law.
No Action	8.	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.

September 1, 2022