

## 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, October 5, 2023 at 12:00 p.m.**

***The Board of Adjustment was held in-person and virtually.***

The results of the meeting were as follows:

## RESULTS

**Approved**      **A. Approval of Minutes – August 3, 2023**  
**Approval of Minutes – September 7, 2023**

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

**Approved**      **B. Approval of Agenda – October 5, 2023**

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

### C. Requests for Continuance and/or Withdrawal

|                  |                     |                                                            |
|------------------|---------------------|------------------------------------------------------------|
| <b>Continued</b> | 1. Application #:   | <b>ZA-567-22-2 (Continued from October 5, 2023)</b>        |
|                  | Existing Zoning:    | R1-18                                                      |
|                  | Location:           | 5917 East Anderson Drive                                   |
|                  | Quarter Section:    | 37-41(M11)                                                 |
|                  | Proposal:           | Variance to allow 28% lot coverage. Maximum 25% permitted. |
|                  | Ordinance Sections: | 610.B.Table                                                |
|                  | Applicant:          | Alan Christensen, A Christensen Architect, LLC             |
|                  | Representative:     | Alan Christensen, A Christensen Architect, LLC             |
|                  | Owner:              | Norman M. and April D. Kvalvik Trust                       |
|                  | Appellant:          | Jeffrey Gross, Berry Riddell                               |

**Continued to December 7, 2023.**

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

#### D. Items for Consideration

**Approved  
review with  
deletion of  
Stipulation 4**

2. Application #: **ZA-185-23-8 (2-Month Review)**  
Existing Zoning: DTC-Evans Churchill East  
Location: 508, 516 and 520 East Portland Street  
Quarter Section: 12-28(G8)  
Proposal: Variance to allow maneuvering to occur in the public right-of-way (north alley side). All maneuvering must be located on private property.  
  
Ordinance Sections: 702.A.1.b  
Applicant: True North Studio  
Representative: Mike Maerowitz, Snell and Wilmer, LLP  
Owner: Jonathon Vento, Bungalows on Portland, LLC  
  
Appellant: Kevin Murphy

**Approved 2-month review with deletion of Stipulation 4.**

**Stipulations:**

- 1) 1 year to apply and pay for building permits.**
- 2) Per the location of the parking spaces along the alley as shown on the plan dated May 17, 2023.**
- 3) Prior to final site plan approval, the applicant agrees to work with Historic Preservation staff to record a perpetual conservation easement on the subject property regarding all exterior facades on the existing three bungalows, to the extent permitted by City code and any other relevant regulations and as approved by Planning and Development Department staff.**
- ~~4) There shall be a review at the October 5, 2023 Board of Adjustment hearing to discuss the status or outcome of discussions between the applicant and the Portland HOA regarding the provision of additional screening along the north side of the alley where adjacent to the Portland II development.~~**

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

**Overtured  
ZAHO with a  
stipulation**

3. Application #: **ZA-249-23-2**  
Existing Zoning: R1-14  
Location: 7044 East Friess Drive  
Quarter Section: 33-44(L12)  
Proposal: **1) Variance to allow an over height wall/fence (8 feet) in the required side yard (east) setback. Maximum 6 feet**

permitted.

**2)** Variance to allow an over height wall/fence (8 feet) in the required rear yard (north) setback. Maximum 6 feet permitted.

**3)** Variance to allow an over height wall/fence (8 feet) in the required side yard (west) setback. Maximum 6 feet permitted.

Ordinance Sections: 703.A.2.c, 703.A.2.c, 703.A.2.c

Applicant: James M. and June E. Tittle

Representative: James M. and June E. Tittle

Owner: James M. and June E. Tittle

Appellant: James M. and June E. Tittle

***Overtured the Zoning Adjustment Hearing Officer's decision and approved requests #2 and #3 with a stipulation. No changes to request #1.***

**Stipulation:**

***1) 1 year to apply and pay for building permits.***

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

**Approved  
review with a  
modified  
stipulation**

4. Application #: **ZA-392-18-3 (6-Month Review)  
(Continued from September 7, 2023)**
- Existing Zoning: R-5
- Location: 1431 East Dunlap Avenue
- Quarter Section: 26-30(J9)
- Proposal: Use permit to allow a community residence center in the R-5 district.  
Use permit required.
- Ordinance Sections: 618.D.7
- Applicant: Brian Greathouse, Burch & Cracchiolo, P.A
- Representative: Brian Greathouse, Burch & Cracchiolo, P.A
- Owner: Joe Keeper, Native American Connections, Inc.
- Appellant: Teresa Duhancik

**Approved the 6-month review and retained Stipulation 8 requiring an additional 6-month review.**

**Stipulations:**

- 1. The applicant shall complete the Community Residence Center registration within 30 days.**
- 2. The applicant shall obtain and maintain a license from either the Arizona Department of Health Services or the City of Phoenix (whichever is applicable). If a license is not obtained within 6 months of the issuance of a Certificate of Occupancy, the Zoning Administrator shall schedule a revocation hearing of this use permit.**
- 3. The applicant will have 1 year to apply and pay for building permits.**
- 4. There will be no more than 55 beds within the Community Residence Center.**
- 5. Cameras must be installed at all entrances to the center. At least two cameras must be installed along the perimeter of the site.**
- 6. Upon receipt of the Certificate of Occupancy, the manager of the facility will designate a manager level staff member as the primary contact. The name and phone number of the primary contact must be provided to all registered neighborhood associations within 1,320 feet of the site. The primary contact must respond to identified concerns from the associations within 7 business days. A copy of the primary contact person's name and phone number shall be provided to the Planning and Development Department for inclusion in the case file and must be updated within 48 hours of any changes.**
- 7. Beginning 6 months after receipt of the Certificate of Occupancy, the facility manager will initiate regular updates regarding neighborhood concerns with adjacent property owners and neighborhood associations. The manager must provide an email documenting to the parties identified that meetings are occurring and how issues plan to be mitigated. The manager and neighborhood associations may utilize email correspondence in lieu of a meeting, if mutually accepted by both parties.**
- 8. The use permit will be reviewed within 6 months.**
- 9. General conformance to the site plan dated July 17, 2018 with regard to the community residence center.**
- 10. There will be no signage indicating the community residence center use on the property.**

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

**Approved  
review with a  
modified  
stipulation**

5. Application #: **ZA-462-15-6 (7-Month Review)  
(Continued from May 4, 2023)**
- 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: Rodney Jarvis, Gallagher & Kennedy
- Owner: 40th Street Developers LLC
- Appellant: Wallace Graham, Arcadia Osborn Neighborhood Association

**Approved the 7-month review and modified Stipulation 3 requiring an additional 6-month review.**

**Stipulations:**

- 1. Two years to apply and pay for the first building permit.**
- 2. Outdoor display of merchandise limited to the sidewalk area on the north side of the building.**
- 3. ~~A 7-month review to the May 2023 Board of Adjustment hearing.~~ THERE SHALL BE A REVIEW AT THE APRIL 2024 BOARD OF ADJUSTMENT HEARING TO DISCUSS THE STATUS OR OUTCOME OF PRIVATE MEDIATION AND POTENTIAL STIPULATIONS OR OTHER OPTIONS TO ADDRESS ISSUES REGARDING THE IMPACT OF SOUND ON NEIGHBORING PROPERTIES.**

4. *Outside speakers are to be positioned so as to face the building and be directed away from neighborhoods.*
5. *Outside speaker volume shall be kept to a reasonable level, recognizing ambient conditions, enabling residents in the adjacent neighborhood to enjoy use of their yards, free of noise above ambient condition, simultaneously with any outdoor activity at the subject site.*
6. *Particular attention shall be paid to keeping bass sound level low from outside speakers. DJ's at the subject site will be given a copy of these stipulations prior to operating their sound equipment on the subject site.*
7. *Applicant and restaurant staff shall monitor sound levels in the neighborhood and promptly respond to any calls or complaints by reducing sound levels. In this regard, Applicant shall ensure that the Arcadia Osborn Neighborhood Association shall have the name and phone number of a responsible party to call in the event excessive sound levels emanating from the subject site are experienced by residents of the adjacent neighborhood.*
8. *In no event shall any amplified music be played on the subject site outdoor patio (on the northwest corner of the subject building) after 10 pm on any day of the week, such that the music can be heard beyond the subject site boundaries.*
9. *An acoustical study and plan shall be prepared by a qualified sound engineer; if such study so indicates, on the roof of the building over the subject patio which opens to the north and west, a sound masking system such as white noise machines shall be installed at appropriate locations to mitigate emanation of sound to the neighborhood.*

*(Hill/James - Vote of 5-0) (Eigo absent, Graham recused).*

#### **E. Other Business**

- |                  |                                                                 |
|------------------|-----------------------------------------------------------------|
| <b>Updated</b>   | 3. Update on next Board of Adjustment agenda.                   |
| <b>Updated</b>   | 4. Update on pending appeals of the Board of Adjustment.        |
| <b>No Action</b> | 5. Q & A: Procedure and Process - Board of Adjustment case law. |

**No Action**

6. 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](mailto:pdd.boardofadjust@phoenix.gov). This electronic mail address will not accommodate zoning enforcement/violation complaints.

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October 5, 2023