

**RESULTS OF PUBLIC MEETING
BOARD OF ADJUSTMENT
* REVISED 8/27/24**

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, August 1, 2024 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 – June 6, 2024

(James/Graham - Vote of 4-0) (Ammon, Beuerlein, Dodds absent).

Approved B. Approval of Agenda – August 1, 2024

(James/Graham - Vote of 4-0) (Ammon, Beuerlein, Dodds absent).

*** ~~No Action~~ C. Requests for Continuance and/or Withdrawal**

Withdrawn

5. Application #: **ZA-364-24-4**
 Existing Zoning: R-5 TOD-1, C-2 TOD-1
 Location: 3302 North 3rd Street
 Quarter Section: Q15-28(G8)
 Proposal: **1)** Use permit to allow outdoor dining or seating as an accessory use to a restaurant with alcoholic beverage consumption. Use permit required.
 2) Use permit to allow an extension of a use (surface parking) which is permitted in a less restricted district (C-2) into a more restricted district (R-5) to a maximum of 25 feet. Use permit required.
 3) Variance to allow a 125 foot encroachment into a more restrictive zoning district. Maximum 25 feet encroachment allowed.

4) Variance to reduce the required building frontage along a non-transit street (Morris Drive) to 0%. Minimum 50% building frontage required.

5) Variance to reduce the required building frontage along a non-transit street (Lexington Avenue) to 30%. Minimum 50% building frontage required.

6) Variance to reduce the minimum sidewalk width (Morris Drive) to 6 feet. Minimum 8 feet required.

7) Variance to reduce the minimum sidewalk width (Lexington Drive) to 6 feet. Minimum 8 feet required.

Ordinance Sections: 662.F.1.d; 307.A.8; 307.A.8;
662.I.2.a.Table 2; 662.I.2.a.Table 2;
662.J.1; 662.J.1

Applicant: George Pasquel III, Withey Morris
Baugh

Representative: George Pasquel III, Withey Morris
Baugh

Owner: Ray Zuckerman, Moosedreams
Management, LLC and TGRL 3316
LLC/JTR 3316 LLC

Appellant: George Pasquel III, Withey Morris
Baugh

Appeal withdrawn per applicant's request.

D. Items for Consideration

**Upheld ZAHO
with no
additional
events**

1. Application #: **ZA-372-23-2**
Existing Zoning: C-2 DRSP
Location: 5415 East High Street
Quarter Section: 41-40(N11)
42-40(N11)
Proposal: Use permit to allow a temporary use
(AZ Jazz Fest) for up to 36 months.
Use permit required.
Ordinance Sections: 708.D.1
Applicant: Brad Laughlin, M.U.S.I.C.
Foundation of AZ, Inc.
Representative: Amber Hutchinson, M.U.S.I.C.
Foundation of AZ, Inc.
Owner: High Street Buildings, LLC

Appellant: Amber Hutchinson, M.U.S.I.C.
Foundation of AZ, Inc.

Upheld the Zoning Adjustment Hearing Officer's decision with no additional events.

* ***(Eigo/Graham - Vote of 4-0-1) (Ammon recused)
(Beuerlein, Dodds absent).***

**Approved
review with
stipulations
to remain**

2. Application #: **ZA-350-20-7 (2nd of 3 Annual Reviews)**
Existing Zoning: DTC-McDowell
Location: 509 West McDowell Road
Quarter Section: 12-27(G8)
Proposal: **1) Use permit to allow a microbrewery (Roses by the Stairs Brewing). Use permit required.
2) Use permit to allow outdoor liquor service accessory to a microbrewery. Use permit required.
3) Use permit to allow liquor retail sales. Use permit required.**
Ordinance Sections: 1204.D.Table, 1204.D.Table, 1204.D.Table
Applicant: Jordan Ham, Roses by the Stairs Brewing, LLC
Representative: Taylor Earl, Earl & Curley
Owner: Erick Harrell, 509 West McDowell, LLC
Appellant: Andie Abkarian, Roosevelt Action Association

Approved the 1-year review with stipulations remaining:

Brewery and Retail Sales Operations

- 1) The hours of operation for the brewery and package sales business are to be no earlier than 7:00 a.m. and no later than 10 p.m. on Sunday through Thursday, and midnight Friday and Saturday.***
- 2) Trash pick-up, non-emergency property maintenance, deliveries, and other services shall be limited to the hours of 8:00 a.m. and no later than 10 p.m. and applicant will include these time restrictions in contracts with all vendors and service providers. Applicant will request in contract***

with each vendor that vendor will turn engines off while delivering and to try to be as quiet as possible.

- 3) Applicant will install either walls or a wall/gate combination along the south edge of the property that complies with all applicable codes and regulations, as follows:
 - a. The walls or wall/gate combination will be at least 6 feet high and constructed of solid material;*
 - b. If accepted in a complete site design by site planning, the wall will have a gate that blocks vehicular access to the alley from the parking lot. Such gate will remain closed except for direct business services requiring access to the alley, and for emergency vehicles.*
 - c. If gate is not permitted, the walls will extend along the south edge of the property to the greatest amount permitted consistent with applicable codes and regulations. The applicant will post signage indicating that the alley is to be used for "exit only".**
- 4) Egress into the building for customers shall be limited to north elevation only with the exception of emergency exiting doors.*
- 5) All business will be conducted through the entrance on the north elevation of the premises, with no business transactions conducted from the alley behind the premises.*
- 6) To the extent consistent with all applicable laws, employees may use the parking spots behind the premises, and may utilize the alley to access these spots. "No customer parking" signs shall be posted behind premises.*
- 7) All rooftop and ground mounted equipment will be screened on all sides, in a manner consistent with or exceeding applicable "buffer alley" regulations.*
- 8) Any rooftop vents will be situated to direct towards north, away from residences, with screening to block view and emanation from residences.*
- 9) All illuminated signage shall be limited to the north elevation.*
- 10) All exterior lighting installed to avoid/minimize visibility to residences and backyards, and a commitment to work with nearby residences to ensure lighting does not disturb.*

- 11) *If security cameras are installed, they shall be pointed and mounted in a placement to not view into the residential back yards.*
- 12) *Applicant to install and maintain "Good Neighbor" signage in the parking lot and alley behind premises to communicate to customers to keep voices low, no littering, no smoking, discourage use of alley as pedestrian walkway, and to respect the neighbors' property and privacy.*
- 13) *Applicant to provide bike/scooter parking along the north side of property.*
- 14) *Applicant to provide a smoking area for patrons along the north side of property.*
- 15) *Applicant to provide location for dogs to defecate/urinate along the north side of property.*
- 16) *Applicant to assume responsibility for maintenance of alleyway adjacent to residences and parking lot (trash pick-up, landscape maintenance, etc.).*
- 17) *There will be no amplified music on the patio and music inside building will be maintained at level low enough not to be heard inside adjacent residences.*
- 18) *Owner has represented that brewing process will not generate offensive odor. Owner will mitigate any offensive odors generated by brewing process or operations.*

Outdoor Patio Use

- 19) *The hours of use for the outdoor patio area are to be no earlier than 7:00 a.m. and no later than 10:00 p.m. on Sunday through Thursday and midnight on Friday and Saturday.*
- 20) *The patio will be situated along the northern elevation of the building adjacent to the entrance and will not extend beyond the west elevation of the building, as depicted on the accompanying plan.*
- 21) *The patio shall have a containment fence to prevent the unlawful removal of alcohol from the premises. There will be only one ingress/egress to/from the patio and one additional gate clearly labeled "exit only" egress, both of which will be on the north side of the building, near the business entrance.*
- 22) *Applicant shall construct a wall for sound mitigation and to block visibility of the patio to nearby residences. The wall will extend from the northwest corner of the building in a north or northwestern*

direction to the edge of the parking, as depicted on the accompanying plan.

23) The premises shall be sufficiently illuminated and contained to discourage unlawful activity but to avoid light and glare spillover to adjacent residences.

24) The patio shall be no larger than 600 square feet.

Review and Neighborhood Input

25) Applicant will provide neighbors with direct phone contact for owner and managers.

26) The applicant shall host a neighborhood meeting within 60 days of the commencement of the business.

27) The use permit will be subject to an annual review for three years, commencing 1 year from the approval of the Certificate of Occupancy and/or no later than April 2022.

28) Applicant has 1 year to apply and pay for building permits.

Roses by the Stairs Brewery and the owners of the adjacent residences who objected to the use permit have agreed to the following conditions to the use permit

29) Alley will not be used as a thoroughfare and Applicant will post signs indicating that alley is not to be used by customers as thoroughfare.

30) Employee parking shall not occur on Lynwood Street.

31) Applicant will admonish staff not to (a) smoke or congregate in the alley, (b) gun car engines or play loud music in parking area or elsewhere in neighborhood (c) litter in alley or on neighborhood streets; and (d) put restaurant trash in residential bins. Applicant will post signs with this information in employee area.

32) Applicant will institute and pay for aggressive rodent control on premises and in alley behind premises, if needed.

33) No brewing waste product or untreated wastewater will be disposed of on-site, including that no waste will be dumped in garbage dumpsters (on-site or on-site at neighboring business).

- 34) *All brewing waste will be stored inside the premises until removed. Brewing waste will be stored in containers with bio filters to minimize smell.*
- 35) *Tour vans of maximum capacity of 24 patrons are allowed to visit the facility. Tour buses are prohibited from visiting the facility. Tour vans shall not be permitted to idle more than 10 minutes per hour on-site.*
- 36) *Employees shall not deposit glass into the outdoor dumpsters after 8:00 p.m. Dumpster lids shall be opened and closed slowly, so as to minimize noise.*

(Eigo/Graham - Vote of 5-0) (Beuerlein, Dodds absent).

**Approved
review with a
modified
stipulation**

3. Application #: **ZA-558-23-3 (3-Month Review)**
 Existing Zoning: PSC
 Location: 830 East Greenway Parkway
 Quarter Section: Q36-29(M8)
 Proposal: Use permit to allow patron dancing as an accessory use to a restaurant (Lookout Tavern). Use permit required.
 Ordinance Sections: 622.D.150.c
 Applicant: Kevin Stout
 Representative: David Dow
 Owner: Wael Rabadi
 Appellant: Kevin Stout

Approved 3-month review with a modified stipulation.

Stipulations:

- 1) *Patron dancing approved for the interior Dining Room area as depicted on the site plan date stamped October 27, 2023.*
- 2) *All doors and windows are to remain closed during patron dancing.*
- 3) *The business shall designate a manager level staff as a primary point of contact for surrounding neighbors and neighborhood associations. Contact information for the Primary Contact must be provided to any interested neighbors or neighborhood associations and the manager must respond to identified concerns within 7 business days. A copy of the designated 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.

- 4) The use permit shall be reviewed in ~~three~~ NINE months to ensure noise concerns and neighborhood complaints are being addressed.***

(Hill/James - Vote of 5-0) (Beuerlein, Dodds absent).

Upheld ZAHO

4. Application #: **ZA-257-24-6 (SIGN)**
Existing Zoning: C-3
Location: 5150 East Van Buren Street
Quarter Section: Q11-39(F11)
Proposal: **1) Variance for a ground sign height of 70 feet. Maximum 18 feet permitted.**
2) Variance for a ground sign to increase sign area to 194 square feet. Maximum 130 square feet permitted.
Ordinance Sections: 705.D.2.d(2); 705.D.2.d(2)
Applicant: James Carpentier, International Sign Association
Representative: James Carpentier, International Sign Association
Owner: Circle K Stores
Appellant: James Carpentier, International Sign Association

Upheld the Zoning Adjustment Hearing Officer's decision of denial as filed with stipulations:

Stipulations

- 1) Ground sign height of 50 feet maximum.***
2) Ground sign area of 160 square feet maximum.
3) Final sign design shall require Planning and Development approval and shall include an enhanced decorative sign column cover that utilized actual or simulated materials and textures and matching colors found on the Circle K building.
4) 12 months to obtain sign permits for ground sign.

(Hill/Graham - Vote of 5-0) (Beuerlein, Dodds absent).

Remanded to ZAHO

6. Application #: **ZA-349-24-3**
Existing Zoning: R1-6
Location: 12642 North 20th Street

Quarter Section: Q31-31(K9)
 Proposal: Variance to allow a minimum lot width (Parcel 1, Parcel 2) of 48 feet. Minimum lot width of 60 feet required.
 Ordinance Sections: 613.B.Table B
 Applicant: Francisco Bobadilla
 Representative: Francisco Bobadilla
 Owner: Daniela Atanasovski
 Appellant: Daniela Atanasovski

Remanded to the Zoning Adjustment Hearing Officer.

(Ammon/James - Vote of 5-0) (Beuerlein, Dodds absent).

Upheld ZAHO

7. Application #: **ZA-342-24-6**
 Existing Zoning: R1-6
 Location: 4816 North 35th Street
 Quarter Section: Q18-35(H10)
 Proposal: Variance to allow a lot that does not front onto a public street (Lot 2). Public street frontage required.
 Ordinance Sections: 613.B.Table B
 Applicant: Ryan Huffman, AZ23G, LLC
 Representative: William F. Allison, Withey Morris Baugh, PC
 Owner: Ryan Huffman, AZ23G, LLC
 Appellant: Ryan Huffman

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

(Graham/Hill - Vote of 3-2) (Ammon, Eigo) (Beuerlein, Dodds absent).

E. Other Business

Updated

8. Update on next Board of Adjustment agenda.

Updated

9. Update on pending appeals of the Board of Adjustment.

No Action

10. Q & A: Procedure and Process - Board of Adjustment case law.

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.

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August 1, 2024