

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, January 2, 2025 at 12:00 p.m.**

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

The results of the meeting were as follows:

RESULTS

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| Approved | A. | Approval of Minutes – December 5, 2024
<i>(Dodds/Ammon - Vote of 6-0) (Beuerlein absent).</i> |
| Approved | B. | Approval of Agenda – January 2, 2025
<i>(James/Dodds - Vote of 6-0) (Beuerlein absent).</i> |
| No Action | C. | Requests for Continuance and/or Withdrawal |
| | D. | Items for Consideration |
| Review
approved with
deletion of
Stipulation #3 | 1. | Application #: ZA-462-15-6 (Review) (Continued from May 2, 2024)
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

Review approved with deletion of Stipulation #3.

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. 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.~~***
- 4.3. Outside speakers are to be positioned so as to face the building and be directed away from neighborhoods.***
- 5.4. 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.***
- 6.5. 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.***
- 7.6. 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.

8.7. 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.

9.8. 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.

(Dodds/Ammon - Vote of 5-0-1) (Graham abstained) (Beuerlein absent).

**Overtured
ZAH0**

2. Application #: **ZA-647-24-6**
Existing Zoning: R1-10
Location: 6336 North 3rd Street
Quarter Section: Q21-28(18)
Proposal: Variance to reduce the front yard (east) setback to 13 feet. Minimum 25 feet required.

Ordinance Sections: 611.B.Table B
Applicant: Bart Miller
Representative: Bart Miller
Owner: Bart Miller and Tanya Bateman
Appellant: Mary Crozier, North Central Phoenix Homeowners Association

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

(Dodds/Graham - Vote of 4-2) (Ammon, James) (Beuerlein absent) .

E. Other Business

Updated

3. Update on next Board of Adjustment agenda.

Updated

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

No Action

5. 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.

This publication can be made available in alternate format upon request. To request a reasonable accommodation, please contact Teleia Galaviz at 602-291-2599 or teleia.galaviz@phoenix.gov, TTY: Use 7-1-1.

January 2, 2025