



## **COMMUNITY DEVELOPMENT DEPARTMENT**

*Planning, Zoning and Building Safety*

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*Carlos De La Torre, P.E., Director*

**TO:** Board of Adjustment, District 1

**FROM:** Keith Dennis, Senior Planner  
For: Michael Turisk, Planning Manager

**SUBJECT:** Minutes of Regular Meeting of January 25, 2012

**DATE:** February 14, 2012

**Members Present:**

Ed Cottingham, Chairman  
Tom Borer, Vice Chair  
Jay Sanger, Member

**Staff Present:**

Keith Dennis, Senior Planner

**Others Present:**

Steven Walsh, BA1-12-01 Applicant  
Paul Bays, BA1-11-08 Applicant  
Nick Triphan and Kathy Nieto, Interior Trends Tucson  
Rose Mika, Marian McGrew, and Richard Lazok

*These minutes for the BA1 meeting held on January 25, 2012 are complete only when accompanied by the memoranda for said meeting dated January 25, 2012.*

**Call to Order/Roll Call**

Chairman Cottingham called the meeting to order at 6:01 p.m. at the Cochise County Service Center Conference Room in Sierra Vista. Mr. Cottingham followed by noting that all members of the Board were present, establishing that the Board had a Quorum and could proceed.

Chairman Cottingham asked for a motion to approve the minutes of September 28, 2011 regular meeting. Vice-Chairman Borer made a motion to approve the minutes as written, and Mr. Sanger seconded the motion. Vote was 3 - 0 to approve the minutes of November 23, 2011 meeting.

Mr. Cottingham then called for disclosures from members of the board. Seeing none, he called for the staff report for the second Docket on the agenda, as the Applicant for Docket BA1-11-08 was not yet present.

**NEW BUSINESS**

**Docket BA1-12-01 (Walsh):** The Applicant requested a Variance to Section 904.02 of the Zoning Regulations, which requires that all structures in an SR-43 District be set back no less than 20 feet from all property lines. The Applicant seeks to legitimize an existing guest house that was built 15 feet from the North and West property lines.

The subject parcel (Parcel # 105-94-153) is located at 2803 Zuni Court in Sierra Vista, AZ. The Applicant is Steven Walsh, represented by Kathy Nieto of Interior Trends Remodel.

Mr. Cottingham asked those assembled for the Docket if they had attended a BA meeting before, and briefly explained the process, powers and duties of the board.

Senior Planner Keith Dennis presented the Docket on behalf of the planning director.

Mr. Dennis explained the facts of the case using visual aids such as slides, photos and a site plan provided by the Applicant. He explained that staff had different and sometimes conflicting records as to the exact location of the existing guest house and block fence relative to the real property lines. Because the structure was built without a permit in the 1970s, 100% accurate information as to the location relative to property lines was not forthcoming. In the absence of such, the staff report and recommendations followed the measurements as provided by the Applicant and contractor, which showed the building to be 15 feet from the North and West property lines.

Mr. Dennis then provided the factors in favor of approval of the Docket, and recommended approval of the Variance as requested.

Mr. Cottingham declared the public hearing open and invited the Applicant or representative to speak. Mr. Nick Triphan of Interior Trends Tucson spoke on behalf of the Applicant, declaring that he concurred with the facts and recommendations of staff. He asked if the proposed covered porch to be constructed along the East side of the existing guest house would be affected by the Variance request. Mr. Dennis explained that the legitimization of the structure in its current location would allow for the construction of the porch, which would as a matter of course observe the same 15-foot setback as the existing building.

Mr. Cottingham called for additional comments from those assembled. Seeing none, he invited comments from the Board members. There being none, he called for a motion. Mr. Borer moved to approve the Variance as requested. Mr. Sanger seconded the motion, which passed 3 – 0.

**Docket BA1-11-08 (Bays):** The Applicant requested a Variance to Section 704.02 of the Zoning Regulations, which allows for a maximum height of 20 feet for accessory structures. The Applicant seeks to construct an accessory boat and RV storage garage, with a proposed height of 26 feet.

The subject parcel (Parcel # 105-18-010T) is located at 2055 E. Yaqui Street in Sierra Vista, AZ. The Applicant is Paul Randall Bays of the same address.

Mr. Dennis then presented the Docket on behalf of the Planning Director. He explained the facts of the case using site photos, maps, a site plan and building elevations provided by the Applicant. He indicated that staff had received objections from four neighbors in the immediate area during the process.

Mr. Dennis closed the presentation and invited questions from the Board. Mr. Borer asked staff to clarify the location of the objecting neighbors relative to the parcel. He then asked the Applicant as to the total height of the boat when mounted on the trailer. Mr. Borer explained that he had conducted a site visit to the area around the property to ascertain for himself what the actual impact might be if the Variance were granted.

Mr. Lazok indicated a qualified objection, stating that the location of the proposed garage closer to the existing home would marginally impact his view of the Mule Mountains to the East but that overall, he had no real problem with the request. He said his letter indicated marginal objection, but also his desire to sit down with the Applicant to discuss reasons for the request, as well as options and alternatives that might be available.

Mr. Bays displayed a number of photos of the property and vicinity on a laptop computer which he had brought for the purpose. He explained that the Thornburgs, who resided immediately North of the property had been informed that the garage would not be on the East side of the property, but on the West side. This, Mr. Bays explained, was “the reason why they [were] not here,” indicating that their objection had been withdrawn.

Mr. Cottingham asked staff if any of the original objecting neighbors had withdrawn or otherwise qualified their objections. Mr. Dennis indicated that no such correspondence had been received. Staff did receive one call from a neighbor asking if they should let their original objection stand or if a new letter was needed, to whom the answer was given that the original objecting correspondence would suffice.

Mr. Cottingham then asked the Applicant if he had spoken with any objecting neighbors since the December meeting. Mr. Bays said that other than the Thornburgs and Lazoks, he had not.

Mr. Sanger then asked the Applicant a number of questions about the dimensions of the proposed building, the height of the boat as mounted on the trailer, and what options there might be to house the boat in a structure less than 26 feet in height.

Mr. Cottingham then asked for clarification from staff as to how height is measured from the standpoint of zoning regulations. He then asked the Applicant how the building might be made to both house the building and comply with the zoning standard. Mr. Bays answered by saying that, if the proposed building were to match the home in terms of roof structure and pitch. He explained that the pitch of the roof meant that trusses would have to be within the building to hold up the roof, and that these would interfere with the boat unless their height was sufficient to clear the mounted boat.

There followed a brief discussion about trusses and structural elements of buildings. Mr. Borer said that the proposed building would generally appear as part of the overall building mass of the existing structures on the property and that it seemed that, in his view, the impact on neighboring views would not be significant.

Mr. Bays then showed the Board members some additional photographs. Mr. Borer pointed out that the proposed structure would be fairly in keeping with the character of the other structures on the property and in the neighborhood.

Mr. Sanger discussed the roofline of the existing structures on the property and the possibility for a flat-roofed building with a taller door bay on a shorter building in order to allow the boat to be housed within the zoning standard height limit. Mr. Bays said the goal was to have the building match the style of the main house.

Mr. Cottingham then asked the Applicant the extent to which his existing house already posed a problem to the mountain views of the neighbors. Mr. Bays said he had investigated this question by observing the

property from the vantage point of each of the neighbors' properties. Mr. Cottingham asked if the construction of the new building would create or exacerbate such a problem if it already existed. There followed a brief discussion clarifying the location of the various structures on the property and neighborhood, as well as the angles and positions from which the various photographs were taken.

Mr. Lazok re-iterated that his principle concern was the height of the proposed building and his view of the Mule Mountains to the East, but that he had a difficult time conceiving of how it would look until he could actually see it.

Mr. Bays then re-iterated that the Thornburgs had objected until they learned that the building was to be placed on the West side rather than the East, and that their objection was withdrawn as a result. Mr. Borer indicated that he was present when the Applicant and a neighbor discussed the issue in December of 2011. *(Note: the sign in sheet for the 12/21/2011 meeting indicates that Keith and Mari Linden, and not the Thornburgs, were the ones present that evening).*

There followed a clarification of the height of the existing building and the height standards for principal and accessory structures in a TR District. A nearby structure was discussed, which was believed to have been built without a permit and which also appeared to be above the height limit.

Mr. Bays indicated that the purpose of the Variance request was to simply cover the boat, which he said was "very expensive, a \$200,000 boat," which he said spent much of the year in Mexico, but in the winter months he wanted to be able to keep it out of the elements. The other goal was to cover it with a structure that was architecturally compatible with the home and neighborhood. In regard to property values being affected, he stated that his home was "easily a million-dollar house" and that the act of purchasing the partially-built house and completing it had a positive effect on neighboring property values.

Mr. Cottingham asked about a sub-grade building, in which the boat could be housed below grade. Mr. Bays said he had considered that, but explained that the topography of the property made that solution undesirable.

Mr. Sanger asked if the objecting neighbors would be notified of the Board's decision. Mr. Dennis said that a limited number of people would be notified directly, but that the results of the decision would likely be common knowledge in the neighborhood in short order regardless of the Board's decision. Mr. Cottingham talked about the possibility of the Board action setting or being seen as setting a precedent. Mr. Dennis stated that, to the extent that any precedent was set by the Board action, it would be that Variances to site development standards require the approval of the Board of Adjustment. Beyond that requirement, it was understood that such requests were heard and decided on a case-by-case basis.

Mr. Cottingham said that the number and consistency of objections from close neighbors in this case was of real concern, unless this was a matter of a single neighbor "raising a conspiracy" and thereby creating an issue where there might not otherwise be such. Mr. Bays indicated that this was the case, and invited Mr. Lazok to speak to that issue, whereupon the latter identified Mr. Thornburg as having notified him of his concerns, which in turn caused Mr. Lazok to share similar concerns. Mr. Lazok was asked if his concerns had been abated. He and the Applicant began to talk about their close friendship. Mr. Cottingham said that friends might disagree on any number of issues, and asked Mr. Lazok again whether the Applicant's convenience trumped the concerns of his neighbors. Before Mr. Lazok could answer, Mr.

Bays spoke and said that if the Board denied the Variance, he would simply leave the concrete pad in place and not build any structure over it. This would mean that the boat would sit idle on the pad for eight months out of the year, and he himself considered the boat an eyesore, and that he might have to sell it in order to alleviate the existing aesthetic issue in the neighborhood which he said the boat caused. Mr. Cottingham suggested leaving it in Mexico where it saw the most use, and some discussion ensued as to the height of the trailer and the possible interference this would cause with the boat propellers. He said the trailer was built specifically for this boat and could not be lower than it was.

Mr. Bays re-stated that all other alternatives and possibilities had been considered and that there was no other location on the property or elsewhere where the boat could be adequately housed. Mr. Cottingham again clarified the position of the proposed building relative to objecting neighbors and their views of the mountains.

Mr. Cottingham called for staff recommendation. Mr. Dennis said that the number, type, and consistency of objections from neighbors, as well as their close proximity to the property meant that staff must recommend denial of the Variance. This, he explained, was a quantitative issue, and that the Board may consider the more subtle, quantitative aspects of the case. Mr. Bays turned to Mr. Lazok and asked if he would rather see the boat in a structure or in no structure at all. Mr. Lazok said that in terms of aesthetics, a structure is better than no structure, but re-iterated his primary concern was with the possible impact to his view to the East. Nevertheless he seemed to suggest that he was withdrawing his objection. Mr. Dennis asked if this was the case, and Mr. Lazok said he did “not have a strong objection” but then said that, in order to make things easier for the Board, he would say that he withdrew his objection.

MR. Cottingham called for a motion. Mr. Sanger moved to approve the Variance, Mr. Borer seconded it, and it passed 2 – 0. Mr. Cottingham cast the dissenting vote, and re-stated the reasons for his vote.

### **Election of Officers:**

Mr. Cottingham called for nominations for 2012 officers, indicating he did not wish to serve as Chairman for this term. He nominated Tom Borer to be Board Chairman for 2012; Mr. Sanger seconded and the motion passed 3 – 0. Mr. Borer then nominated Mr. Cottingham to be Vice-Chairman for 2012. Mr. Sanger seconded the motion, which also passed 3 – 0.

### **Planning Director's Report:**

Mr. Dennis gave a brief explanation of upcoming Planning Commission Dockets and congratulated Mr. Sanger on his recent appointment to the Commission.

Mr. Sanger indicated that this would be his last Board meeting, as he had accepted an appointment to the Planning and Zoning Commission.

The meeting was adjourned at 7:15 p.m.