



## **COMMUNITY DEVELOPMENT DEPARTMENT**

*Planning, Zoning and Building Safety*

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

### **MINUTES**

TO: Board of Adjustment, District 3

FROM: Keith Dennis, Senior Planner

SUBJECT: Minutes of the Regular Meeting of December 13, 2011

DATE: December 15, 2011

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#### **MEMBERS PRESENT**

Paul Brick, Vice-Chairman

Shawn Wales, Member

Helen Barnard, Member

#### **STAFF PRESENT**

Carlos De La Torre, Community

Development Director

Keith Dennis, Planner

*These minutes for the BA3 meeting held on December 13, 2011 are complete only when accompanied by the memorandum for that meeting.*

Vice-Chairman Brick called the meeting to order at 6:30 PM at the J.P. Courtroom at the Cochise County Regional Services Center in Benson, Arizona. Mr. Brick followed by calling the roll and a quorum was established with the presence of all three Board Members.

Ms. Barnard moved to approve the minutes of the September 13, 2011 meeting.

Mr. Wales seconded the motion, which passed (2 – 0) with no corrections or additions, with Mr. Wales abstaining.

#### **NEW BUSINESS**

**Docket BA3-11-02 (Fulcher):** Mr. Brick announced the Docket, BA3-11-02, which consisted of a request for a Variance to Section 704.04 of the Zoning Regulations, which requires that all structures be set back no less than 20 feet from all property lines. The Applicant intends to construct a 720 square foot workshop and a 540 square foot pole barn 5 feet from the Southern property line. The subject parcel (Parcel No. 208-45-010B) is located at 1380 N. Old Pomerene Road in Pomerene, AZ. The Applicant is Amanda Fulcher.

Mr. Dennis presented the case through the use of photos, the Applicant's site plan and other information. He informed the Board that the Applicants intended to place the structures 5 feet from the Southern property line, where members of the Applicant's family live, and that the latter have no objection. He also said that the structures would be set back the full 20 feet required by standard along the Western property line. He then explained the factor in favor and against approval, noting that the neighbor immediately west of the property had objected to the request, although the proposed buildings would be set back the full 20-feet required along his shared property line. He concluded by offering the staff recommendation of approval as requested.

Mr. Brick then opened the public hearing, and invited the Applicant, Amanda Fulcher, to speak. Mrs. Fulcher explained that the purpose of the pole barn was to store quad vehicles as well as a place in which to restore an old car. The workshop was for her husband's woodworking avocation. She indicated that no livestock would be using either of the proposed buildings. She further explained that placing the structures where proposed would result in the need to remove one of the mesquite trees on the property, but that placing them the full 20 feet from the Southern property line would mean that as many as a dozen trees would have to be removed.

Mr. Brick invited the Board to question the Applicant. Mr. Wales asked Mrs. Fulcher if the driveway used to access the property was shared with the property to the South. The Applicant indicated that this was the case, and that it was an access easement that did not extend all the way through to the next property but terminated on the subject property. Ms. Barnard asked if this was a public or private easement, and was told that it was private.

Mr. Brick then invited other members of the public to speak. Mr. Lonny Jones listed several problems he had with the Applicants, including the dumping of animal waste over the fence line. He stated that he had called on law enforcement more than once in response to loud music being played on the property. He indicated his concern that the workshop would be used for commercial purposes. He concluded by saying that as long as the Applicants kept their property as residential and kept quiet, he had no problem with the Applicants using their property as they saw fit.

Mr. Wales stated that, as a residentially-zoned property, commercial uses on the property should be prohibited in any case. Mr. Dennis indicated that property owners occasionally engage in land use activities for which they do not have a permit or the correct zoning regardless of the zoning district, but that some limited commercial uses can take place on residential properties, such as home occupations.

Ms. Barnard informed Mr. Jones that the Applicants intended to observe the full 20 foot setback along his property line. Mr. Jones restated that he was aware of this, and that as long as the Applicants were good neighbors he had no problem.

Mr. Brick offered the Applicant the opportunity to rebut the opposition's comments, and she declined.

Neighbor Mr. Robert Tulk then offered his testimony on the case, stating that he knows the

Applicant and her family, and that the Variance requested would not affect the neighbor to the West; that the four walls of the proposed structures would mean that impacts from loud music would be lessened, and that the structures will be constructed regardless of the Board decision; only the location of these was in question. He stated that he supported the Variance request and would offer to help build the buildings.

Mr. Wales asked the Applicant if she had anything else to say, and she indicated she had nothing further.

Mr. Brick then declared the public hearing closed, and asked for the staff recommendation. Mr. Dennis offered a recommendation of approval. Mr. Brick called for a motion on Docket BA3-11-02. Mr. Brick moved to approve the Docket, Ms. Barnard seconded and the motion passed (3 – 0).

### **ELECTION OF 2012 OFFICERS:**

The Chairman then announced the election of officers for the 2012 calendar year. Mr. Wales and Ms. Barnard nominated Mr. Brick as Chairman of the Board. Mr. Brick then nominated Mr. Wales as Vice-Chair. Each motion passed unanimously (3 – 0).

### **DIRECTOR'S REPORT:**

Mr. Brick then called for the Planning Director's Report. Mr. Dennis introduced Community Development Director Carlos De La Torre and asked him to speak. Mr. De La Torre informed the Board that the Planning and Zoning Commission would be discussing changes to their by-laws at the December 14<sup>th</sup>, 2011 meeting the following night. He said that the Board of Adjustment may wish to examine its own by-laws as well. Mr. Brick asked if the Board or the Commission could change their own by-laws of their own accord. Mr. Dennis explained that changes go to the Board of Supervisors for approval, and that such changes are enacted by Ordinance.

Mr. De La Torre concluded the Planning Director's Report by thanking the Board for their service to the County, and wishing them happy holidays. Mr. Dennis added that the Board would meet again on January 10, 2012 for action on another Variance request in the Pomerene area.

Mr. Brick called to the public; seeing none who wished to speak closed the call to the public. He then thanked Mr. De La Torre for his work as head of the Highway Department, stating that the maintenance and conditions of the roads in the Pomerene area had improved over the last year.

The meeting was adjourned at 6:55 p.m.