



City of Goodyear

See meeting location
below

Meeting Minutes

Board of Adjustment

Wednesday, June 28, 2017

6:00 PM

Goodyear Justice Center
14455 W. Van Buren St., Ste. B101
Goodyear, AZ 85338

1. CALL TO ORDER

Chairman Neith called the Board of Adjustments meeting to order at 6:00 p.m.

2. PLEDGE OF ALLEGIANCE

3. ROLL CALL

Present 3 - Chairman Thomas Neith, Vice Chairman Estelle Beswick, and Boardmember Robert Garcia

Excused 2 - Boardmember Gerald Schroeder, and Boardmember Nancy Burton

Staff Present: Development Services Director Christopher Baker, Assistant City Attorney Lisa Maxie-Mullins, Management Assistant Heather Harris.

Special Counsel to the Board: Attorney Gary J. Verburg

A vote shall be taken at this time to excuse only those Board members who were unable to attend the meeting due to extenuating circumstances.

MOTION BY Chairman Garcia, SECONDED BY Boardmember Neith, to EXCUSE the Boardmember Schroeder and Boardmember Burton from the meeting. The motion carried by the following vote:

Ayes 3 - Chairman Neith, Vice Chairman Beswick, and Boardmember Garcia

Excused 2 - Boardmember Schroeder, and Boardmember Burton

4. APPROVE MINUTES

- 4.1 [MINUTES](#) Approve draft minutes of the Board of Adjustments meeting held on January
[49-2017](#) 24, 2017.

MOTION BY Boardmember Garcia, SECONDED BY Vice Chairman Beswick, to APPROVE the draft minutes of the Board of Adjustments meeting held on January 24, 2017. The motion carried by the following vote:

Ayes 3 - Chairman Neith, Vice Chairman Beswick, and Boardmember Garcia

Excused 2 - Boardmember Schroeder, and Boardmember Burton

5. CITIZENS COMMENTS/ APPEARANCES FROM THE FLOOR

None.

6. OLD BUSINESS

None.

7. NEW BUSINESS

- 7.1** [17-110-00001](#) Appeal #17-810-00001 by Crawford Breedlove on behalf of Arizona Behavioral Health Care Homes relating to a decision by the Zoning Administrator on spacing requirements for a group home located at 4349 N. 161st Avenue.

Special Counsel Gary Verburg explained the appeal to be presented and outlined the function of the Board. The Zoning Administrator decision has been appealed to the Board for affirmation or reversal. The decision made states that the required separation between two group homes having 7-10 residents must be separated by a distance 1,320 feet. The Zoning Administrator finds this is measured from property line to property line. Both the applicant (the party challenging the interpretation) and the Zoning Administrator have provided narratives for Board review.

Appellant Crawford Breedlove, Arizona Behavioral Care Homes, was present to appeal to the Board. Breedlove stated that his organization has several homes located in Goodyear and that, regardless of outcome, still plans to do business in the city of Goodyear. Breedlove's argument is in regards to how the measurements are determined. Breedlove believed the interpretation has been, based on the map, that it was quarter mile, house to house. Breedlove opposed the decision of property line to property line as the City Zoning Ordinance does not outline how the 1,320 feet is measured. Breedlove presented the map he received with the denial letter in February. As a result of the Zoning Administrator's decision, Breedlove hired a professional surveyor who determined the home was distanced 1,352 feet. He is appealing how the distance is measured and that the staff met with legal who determined property line to property line, and the materials provided are not specific.

Boardmember Questions:

How many people are to live in the home? Breedlove stated that 10 people would be the maximum as any more requires a commercial license.

Development Services Director Christopher Baker presented on behalf Planning and Zoning and as the Zoning Administrator. Explained the role of the Board to affirm the Zoning Administrator interpretation, which would still allow 6 or less residents or reversing the decision would allow 7-10 residents. Baker reviewed the surveyor letter presented by Breedlove and pointed out that the measurement was from door to door, but the City measures property line to property line. When the application was denied, staff suggested to the applicant to hire a surveyor or to submit for a Special Use Permit, which would require a public

review process and ultimately decided by City Council. The applicant choose to appeal to the Board instead of making a Special Use Permit application. Surrounding cities, including Buckeye and Avondale, use property line to property line as a basis on zoning notification. The entire lot is utilized for the group home, which is the rationale for determining that the use of the property embodies the entire property, not just the structure. Structure to structure can not be determined as residential homes are not required to have as-builts, but the GIS system used by the city can measure property line to property line.

Board Questions:

Can a business person come to the conclusion of how the separation is determined? The applicant can contact planning staff to assist with determining separation.

Breedlove was provided an opportunity to rebuttal the staff presentation and stated that when he contacted the department, that the staff could not tell him how it was measured. Breedlove's experience was that the department did not know how separation was determined and they had to consult the city attorney. The applicant stated that he is not necessarily challenging the policy, but to highlight that it was not simple and felt he had done his part in trying to accomplish due diligence. The property line to property line determination should be outlined in the ordinance.

Board Questions:

Is the letter in the packet the only letter the city sent? Breedlove answered yes, the one received on February 17th along with the map. After that, communication was verbal with staff.

Since you are currently in compliance, why appeal for more residents? Purchased a large home with the intent to house up to 10 residents.

What procedures were used to determine the separation of the other homes in the City? The homes are not close enough to be a problem in the past. Goodyear does not have a lot of this type of home and the distance has not been an issue.

Did the other properties have a measurements done for you? No.

A resident who lives near the property addressed the Board and stated that he wanted to speak believing he could give an opinion as to whether or not to have group home in his neighborhood as he is opposed to having the home in the area. Even though that is not the decision before the Board this evening, he still wanted his opposition to go on record.

Special counsel Verburg advised the board that they may have open discussion or go into Executive Session for legal advice.

A vote shall be taken at this time to go into Executive Session, pursuant to A.R.S. 38-431.03 (A3 and A4), which is not open to the public, to receive legal counsel.

MOTION BY Chairman Neith, SECONDED BY Boardmember Garcia, that the Board CONVENE in EXECUTIVE SESSION pursuant to A.R.S. 38-431.03 (A) (3), to receive

legal advice. The motion carried by the following vote:

Ayes 3 - Chairman Neith, Vice Chairman Beswick, and Boardmember Garcia

Excused 2 - Boardmember Schroeder, and Boardmember Burton

Meeting went into Executive Session at 6:42 p.m.

Meeting reconvened at 6:54 p.m.

A vote shall be taken to either affirm the decision of Zoning Administrator, which has the effect of continuing to measure the separation distance from property line to property line or reverse the decision of Zoning Administrator, having the effect of measuring the separation distance from door to door for Case 17-110-00001 (Appeal #17-810-00001).

MOTION BY Chairman Neith, SECONDED BY Boardmember Garcia, to AFFIRM the decision of Zoning Administrator, and continue to measure the separation distance from property line to property line for Case 17-110-00001 (Appeal #17-810-00001 by Crawford Breedlove on behalf of Arizona Behavioral Health Care Homes relating to a decision by the Zoning Administrator on spacing requirements for a group home located at 4349 N. 161st Avenue). The motion carried by the following vote:

Ayes 3 - Chairman Neith, Vice Chairman Beswick, and Boardmember Garcia

Excused 2 - Boardmember Schroeder, and Boardmember Burton

8. INFORMATION ITEMS

None.

9. ADJOURNMENT

There being no further business to discuss, Chairman Neith at 6:57 p.m.

Respectfully Submitted By:

Heather Harris, Board Secretary

Thomas Neith, Chairman

Date: _____