



**TOWN OF PRESCOTT VALLEY
BOARD OF ADJUSTMENT**
Meeting Minutes
Monday, June 22, 2020
Prescott Valley Library Auditorium

I. Call to Order

Chairperson Shimmin called the meeting of the Board of Adjustment to order at 5:30 p.m. and outlined the public hearing rules and procedures for the Board of Adjustment.

II. Roll Call

Members present: Chairperson Shimmin, Vice-Chairperson Johnson and Member Griffis. Members absent: Member Van Boening. Staff present: Fernando Gonzalez, Code Enforcement Supervisor; Kristi Jones, Administrative Support II and Kelly Campbell, Administrative Support II.

Chairperson Shimmin stated that as a full Board was not present, pursuant to Article 13-29-060, applicants have a right to request that their items be placed on an upcoming agenda for review by a full Board.

The applicant elected to proceed.

III. Approval of Minutes – December 16, 2019

Chairperson Shimmin asked if there were any changes to the minutes from the December 16, 2019 meeting. No revisions were submitted; therefore, Chairperson Shimmin called for a motion to approve the minutes. Chairperson Shimmin made the MOTION, seconded by Vice-Chairperson Johnson, to approve the minutes as submitted from the December 16, 2019 Board of Adjustment meeting.

MOTION carried 2:0 by roll call vote as follows: Chairperson Shimmin YES, Vice-Chairperson Johnson YES and Member Griffis abstained.
MOTION carried with 2 ayes and 0 nays.

IV. Announcements

- Mr. Gonzalez introduced new Board member, Sandi Griffis. Mr. Gonzalez also introduced Edward Packard, Planner; and Kelly Campbell, Administrative Support.

V. Action Items

- V20-001.** Upon the application Terry D. Moore, Owner, a request for a Variance to allow a storage building to remain in its current location which does not meet Town Code setback requirements. The property is located at 4400 N. Teepee Road, Prescott Valley Unit 20, Lot 1192, APN# 402-22-319.

Fernando Gonzalez, Code Enforcement Supervisor, stated that the subject property is a corner lot located within a R1L-10 (RESIDENTIAL; SINGLE-FAMILY LIMITED) zoning district, with a density designation of ten (10). One purpose of the density district is to regulate the property setbacks.

Mr. Gonzalez reported that the property owner erected an accessory structure (storage shed) without the benefit of a building permit on the subject property. He noted that a building inspector was dispatched to the property to advise the property owner that a building permit was required as the frame and roof were already completed. Mr. Gonzalez indicated that the property owner completed the structure and then attempted to obtain the permit. Upon review of the permit application, it was found that the accessory structure was not located in the rear one-half of the lot; and therefore, must maintain the same setback requirements as the dwelling unit per Town Code section 13-21-080.E.

Mr. Gonzalez noted that a neighbor had submitted a letter on behalf of the applicant. The letter stated that a contractor had erected the accessory structure and they don't have any issues with the structure. Mr. Gonzalez emphasized that neighbors can't grant permission to violate Town Code.

Mr. Gonzalez referenced Town Code section 13-20-010.D "Yard Dimensions Minimums" which indicated the setback requirements for the density district ten (10) are twenty-five feet (25') in the front yard, twenty-five feet (25') in the rear yard, seven feet (7') on an interior side yard and ten feet (10') on the exterior side yard.

Mr. Gonzalez reported that the subject property is a corner lot; therefore, upon review, he needed to determine the standards in the Town Code for a corner lot. He noted that Town Code section 13-02-010.B.119 "Definitions" states that a "Lot Line (Front): That part abutting a street. The front line of a corner lot shall be the shorter of the two street lines as originally platted, or if such are equal, the one chosen by the owner of the property..." Mr. Gonzalez displayed, via a visual graphic, the original plat which indicated that the lot line on Juniper Circle measures ninety-three point zero six feet (93.06') while the lot line on Teepee Road measures one hundred twenty-seven point fifty-nine feet (127.59'). The definition as written and the review of the original plat clearly indicates that Juniper Circle is the front lot line and Teepee Road is the exterior side yard for setback purposes.

Continuing, Mr. Gonzalez stated that the accessory structure (storage shed) is located along the interior lot line of the property that measures one hundred nineteen point fifty-one feet (119.51'). Using the property owner's measurements on an illustration submitted with his application, Mr. Gonzalez displayed the illustration which showed a measurement of forty feet (40') from the fence to the front of the accessory structure. The illustration also depicted a measurement of twenty-five feet (25') of asphalt which is actually the public right-of-way; thus, confirming that the storage shed is not located in the rear

one-half of the property. Mr. Gonzalez explained that the shed must be seven feet (7') from the property line and it currently measures approximately five feet (5').

In conclusion, Mr. Gonzalez stated that the applicant caused an accessory structure to be constructed on his property without obtaining a building permit. The Town Code required specific standards for the installation of the accessory structure that were not met at the time of construction. He noted that the property owner had options that would permit the placement of the accessory structure on his property in compliance with Town Code. Mr. Gonzalez emphasized that there were no special circumstances applicable to the property that are not self-imposed by the property owner.

Therefore, Staff recommends the Board deny Variance V20-001 to allow a storage building to remain in its current location.

Chairperson Shimmin opened the item to questions or comments from the Board.

Vice-Chairperson Johnson inquired how far the shed would have to be moved in order to be compliance. He also asked for clarification of the other measurements provided and if there was a way to make it work without moving the storage shed.

Mr. Gonzalez provided a detailed description of the measurements from the property lines via a visual map of the original plat. He confirmed that the shed would need to be moved approximately two feet (2') in order to be in compliance with Town Code. Mr. Gonzalez reiterated that if the shed had been placed in the rear one-half of the lot, different setback requirements would apply. However, based on its current location, the shed must maintain the same setback requirements as the dwelling unit.

Member Griffis inquired about the building permit and if the permit was currently on hold.

Mr. Gonzalez stated that the building permit could not be approved as it doesn't meet the setback requirements.

Member Griffis asked why the property has a Teepee address if Juniper is considered the front of the lot.

Mr. Gonzalez explained that on corner lots, some owners want to build in a manner that allows for the best view possible and the Town allows them to orientate the home on the lot however they like if the proper setbacks are maintained. He noted that a property owner may petition the Town to have the address put on a different location such as the subject property.

Member Griffis asked if the concrete slab was poured prior to Mr. Moore purchasing the property.

Mr. Gonzalez noted that the slab was not there prior; the applicant had poured the concrete slab.

Member Griffis expressed that she didn't see the shed the first time she drove past it and she doesn't feel it has a negative impact on the home or the neighborhood. Member Griffis noted that it's not possible to move the shed two feet.

Mr. Gonzalez agreed that the shed doesn't negatively impact the neighborhood; however, his personal opinion doesn't negate Town Code. Furthermore, the shed can be moved the required two feet to bring the property into compliance. Mr. Gonzalez emphasized that the owner built the shed without obtaining a building permit thus creating a self-imposed hardship.

Chairperson Shimmin inquired if aesthetics, perceptions, or approval from neighbors countermand the Town's legal position.

Mr. Gonzalez responded, "it does not."

There were no further questions or comments from the Board for Staff; therefore, Chairperson Shimmin invited the applicant to address the Board.

Terry Moore, Owner, addressed the Board. Mr. Moore stated that he purchased the property a year ago.

Vice-Chairperson Johnson asked if he was aware that a building permit was required to build the structure.

Mr. Moore stated that he was erroneously informed that a permit wasn't required to build a storage shed.

Chairperson Shimmin inquired as to whether his contractor gave him incorrect advice.

Mr. Moore replied "possibly."

Chairperson Shimmin asked if his contractor was licensed.

Mr. Moore indicated that he doesn't know if his contractor is licensed or not.

Chairperson Shimmin asked for confirmation that the contractor built the structure for him absent of knowing whether he was licensed or not.

Mr. Moore stated that wasn't part of their discussion. He explained that there were conversations regarding the various construction methods that were employed as to determine the best practices with the build such as the construction of the building, the concrete, the use of rebar and use of a deep footing all around the concrete. Mr. Moore noted that he has experience in those areas as he is a retired electrician that

worked for forty-five (45) years in the industry. He mentioned that a lot of the things the contractor did were at his direction.

Chairperson Shimmin appreciated the quality of the construction. She asked if Mr. Moore held a license as an electrician or did he work for a licensed contractor.

Mr. Moore stated that he never held a license; he was an employee only. He noted that he did work for licensed contractors.

Member Griffis commended Mr. Moore on the details of his application submittal. She asked if his lot had created a hardship and was this the only location that the storage shed could be placed.

Mr. Moore replied "yes." He elaborated that the lot is almost entirely sloped diagonally downhill. Mr. Moore stated that the house is built on a stem wall that is placed at a diagonal on the diagonally sloped lot. He indicated that there was only one place to build a parking area or a storage building. Mr. Moore reported that the previous owner, who was a car collector, had a granite parking area in the rear. Mr. Moore wanted to have a longer parking area and a shed and there was no other option than the current location.

Mr. Moore explained that he went out of his way to build a structure that was well-built and attractive and wouldn't harm the views or be unappealing to the surrounding properties.

As there were no questions for the applicant, Chairperson Shimmin opened the item to public comment.

Lori Towles, 9976 E. Texas Dr., addressed the Board. Ms. Towles stated that she has lived in the neighborhood for approximately a year and has engaged in several conversations with the Moores. She and her husband feel the Moores have added value to the neighborhood and the structure is not an eyesore.

There was no further public comment; therefore, Chairperson Shimmin brought the item back to the Board for discussion.

Member Griffis stated that she doesn't feel the structure creates a negative impact to the neighborhood. She commented that there are differences in mistakes that happen every day. Member Griffis asked what would happen if the Board denies the Variance and what would happen if the Board grants the Variance.

Mr. Gonzalez reported that if the Board denied the Variance request, the applicant would need to bring the property into compliance by relocating the storage shed and he reiterated that there is room on the property to bring it into compliance. Mr. Gonzalez indicated that if the Board granted the Variance, he would need to consult with the Town's legal counsel.

Chairperson Shimmin explained that a Variance goes with the lay of the land. She noted that this was a specific decision to build a structure absent of a required building permit. Chairperson Shimmin emphasized that the Board has an obligation to follow Town Ordinance and noted that the Board can't make decisions based on aesthetics or personal opinion.

Vice-Chairperson Johnson mentioned a previous Variance in which the carport was located in the setback area; however, the Board granted the Variance.

Chairperson Shimmin reported that the Variance was granted due to erroneous measurement by Town staff which created the discrepancy.

Chairperson Shimmin called for a motion related to the item.

Action V20-001:

Chairperson Shimmin moved to deny Variance V20-001.

Vice-Chairperson Johnson seconded the motion.

MOTION carried 2:1 by roll call vote as follows: Chairperson Shimmin YES, Vice-Chairperson Johnson YES and Member Griffis NO.

MOTION carried with 2 ayes and 1 nay.

VI. Call to Public

Chairperson Shimmin called for public comment. There was none.

VII. Adjournment

There was no further public comment related to any item presented during this meeting; therefore, Chairperson Shimmin called for a motion for adjournment.

Vice-Chairperson Johnson made the MOTION, seconded by Chairperson Shimmin to adjourn by roll call vote. Board members voted as follows: Chairperson Shimmin YES, Vice-Chairperson Johnson YES, and Member Griffis YES.

MOTION carried with 3 ayes and 0 nays

The June 22, 2020, Board of Adjustment meeting adjourned at 6:01 pm.

Linda Shimmin, Chairperson