



**TOWN OF PRESCOTT VALLEY  
BOARD OF ADJUSTMENT**

Meeting Minutes  
*Monday, September 23, 2019*  
*Prescott Valley Library Auditorium*

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**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, Member Corrigan, Member Brower, and Member Van Boening. Staff present: Fernando Gonzalez, Code Enforcement Supervisor and Kristi Jones, Administrative Support II.

**III. Approval of Minutes – August 26, 2019**

Chairperson Shimmin asked if there were any changes to the minutes from the August 26, 2019 meeting. No revisions were submitted; therefore Chairperson Shimmin called for a motion to approve the minutes. Vice-Chairperson Johnson made the MOTION, seconded by Member Brower, to approve the minutes as submitted from the August 26, 2019 Board of Adjustment meeting.

MOTION carried 4:0 by roll call vote as follows: Chairperson Shimmin YES, Vice-Chairperson Johnson YES, Member Corrigan YES, Member Van Boening YES, and Member Brower ABSTAIN  
MOTION carried with 4 ayes and 1 abstained.

**IV. Announcements**

**V. Action Items**

- 1. V19-002.** Upon the application of Thomas Marty, Owner, a request for a Variance per Section 13-26-040.D.1 of the Town of Prescott Valley Zoning Ordinance in order to allow a fence to be installed in the required landscaped border one (1) foot in from the property line. The subject property is located at 2853 N. Grizzly Bear Drive, Prescott Valley Unit 7, Lots 2276, 2277, 2278, APN# 103-26-525A and Prescott Valley Unit 14, Lot 4243, APN# 103-26-524A.

Fernando Gonzalez, Code Enforcement Supervisor, stated that the subject property is located within the C2 (COMMERCIAL; GENERAL SALES AND SERVICE) zoning district. This zoning district is intended to provide accommodations for retail and service establishments beyond the immediate residential neighborhoods.

Mr. Gonzalez reported that the C2 zoning district under Section 13-14-070 (Landscaping) specifically states that the landscaping provisions of Article 13-26 shall apply. He noted that the Articles within Chapter 13-26 are site development standards. Town Code Section 13-26-040.D.1 stated that "in all cases there shall be at least a ten-foot (10') wide landscaped border running continuously and contiguously with each street, except that lots in the multiple-dwelling district (R2) may reduce the minimum width of required landscaping borders to seven (7) feet."

Mr. Gonzalez explained that the previous owners of the subject property had been working with the Town in order to comply with this issue as well as other standards. Unfortunately, circumstances beyond their control prohibited them from completing the work and the property was sold. The applicant, who recently acquired the property, has been advised of not only these standards but other building related issues as well.

Mr. Gonzalez noted that the applicant's variance submittal made reference to public easements crossing the property. Mr. Gonzalez reported that it is common practice to have public utility easements on private property in order to serve the community in general.

Mr. Gonzalez stated that the facts show the landscaping provision in Article 13-26 states that the landscaping provision shall apply; not may apply, to the C2 zoning district. The landscape provisions in Section 13-26-040.D.1 require at least a ten-foot (10') wide landscaping border running continuously and contiguously with each street. Therefore, Staff recommends that the Board deny V19-002.

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

Member Brower inquired as to whether this property was annexed from Yavapai County.

Mr. Gonzalez replied "no."

Member Brower asked if Mr. Gonzalez was aware that the applicant made a claim in the submittal that there were several surrounding properties in violation.

Mr. Gonzalez stated there may be surrounding properties not in compliance; however, the properties were subject to the applicable standards that were in place at the time it was constructed. Properties are required to meet current Town requirements if any changes or alterations occur. He noted that the applicant has removed some fencing and made changes; therefore, the property needs to meet the current standards.

Member Corrigan asked if the variance application was a prelude to a site plan application.

Mr. Gonzalez replied "yes."

Vice-Chairperson Johnson asked if existing easement could be moved.

Mr. Gonzalez doesn't believe the easement can be moved as there is an existing water line.

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

Tom Marty, Owner, addressed the Board. Mr. Marty stated he has lived in the area for over thirty years and noted that the subject property is an eyesore. He reported that there is a fence he would like to replace; however, Mr. Gonzalez told him that he'd need to move the fence in ten feet. Mr. Marty stated that moving the fence in ten feet would take away too much of the property and create a hardship. He mentioned that there are several businesses in the surrounding area that have fences right on the property line so he doesn't know why he has to move his fence.

Vice-Chairperson Johnson stated that the fence is dilapidated and appears to be on the property line and encroaching into the utility easement.

Mr. Marty noted that he wants to make it look nicer and reported that the fence in the easement is legal per Town staff.

Vice-Chairperson Johnson commented that although it may create a hardship, the Town has adopted standards to make the communities nice. He noted that to have a fenced-in property without landscaping doesn't beautify the neighborhood.

Mr. Marty responded that his fence would look nice. He indicated that one of the lots will remain a parking lot indefinitely as there is a water line that runs under it. Mr. Marty stated that without a fence in place unauthorized people park on the lot.

Member Corrigan asked what his plans are for the property.

Mr. Marty stated that a U-Haul business had operated there for twenty-five years and he would like to continue that business which generates sales tax for the Town; however, he's unable to move forward until the fence issue is resolved.

Member Corrigan inquired what he would do with the property if the variance was denied.

Mr. Marty expressed that he may sell the property.

Member Brower asked when he purchased the property.

Mr. Marty indicated he purchased the property approximately four months ago.

Member Brower asked if it was purchased owner to owner or was a real estate company involved.

Mr. Marty indicated it was purchased from an owner and noted that it was repossessed from the previous owner.

Member Brower inquired as to whether he was aware of the issues the previous owners had in order to comply with the Town standards.

Mr. Marty replied "absolutely not."

As there were no further questions for the applicant, Chairperson Shimmin opened the item to public comment. There was no public comment; therefore, Chairperson Shimmin brought the item back to the Board for discussion.

Member Corrigan mentioned that there are specific criteria that need to be met in order to grant a variance request. 1) Special circumstances or conditions that apply to the land, building, or use referred to in the request - he doesn't believe special circumstances were shown. 2) The granting of the variance is necessary for the preservation and enjoyment of substantial property rights – Member Corrigan commented that it isn't necessary and the subject property could be used without the variance being granted. 3) The granting of the variance will not materially be detrimental to persons, property or to the public welfare of the community – he noted that to not have the setback, screening and required landscape would be a detriment to the public.

As there was no further discussion among the Board, Chairperson Shimmin called for a motion related to the item.

**Action V19-002:**

**Chairperson Shimmin moved to deny V19-002 based on the finding of fact in the landscaping provision of Article 13-26 applying to C2 Zoning.**

Member Corrigan seconded the motion.

MOTION carried unanimously by roll call vote as follows: Chairperson Shimmin YES, Vice-Chairperson Johnson YES, Member Corrigan YES, Member Brower YES and Member Van Boening YES.

MOTION carried with 5 ayes and 0 nays.

**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.

Member Corrigan 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, Member Corrigan YES, Member Brower YES, and Member Van Boening YES.  
MOTION carried with 5 ayes and 0 nays.

The September 23, 2019, Board of Adjustment meeting adjourned at 5:49 p.m.

Handwritten signature of Linda Shimmin in cursive script.

Linda Shimmin, Chairperson