

MINUTES

BOARD OF ADJUSTMENTS HEARING TOWN OF QUEEN CREEK

6:30 P.M., Monday, August 22, 2005

Queen Creek Town Hall Council Chambers
22350 S. Ellsworth Road
Queen Creek, Arizona

I. Call to Order

The meeting was called to order by Chairman Bryant Gardner at 6:30 P.M.

II. Roll Call

At roll call, there was a quorum of five (5) Board Members: Sharon Steinhauer, Thom Schuett, Chuck Lopez, Vice-Chairman David Johnston, and Chairman Bryant Gardner.

Also in attendance were Town Staff: Ashley Lumpkin, Case Planner; Fred Brittingham, Planning Manager; Tom Condit, Community Development Director, Dennis Cady, Principal Planner, and Laura Moats, Administrative Assistant.

III. Approval of Minutes

There were no minutes for approval.

IV. Public Hearing:

BA 02-05: A request by Bradley Actipis of 22837 South 194th Place (Lot 49 of the Queen Creek Ranchettes 3 Subdivision) for a variance to the required rear yard setback of 40 feet as required in Article 4.7, *Section E, Dimensional and Density Regulations* of the *Queen Creek Zoning Ordinance*.

Planner Ashley Lumpkin presented the staff report, explaining the applicant's request, the requirements of Arizona State Law and the Queen Creek Zoning Ordinance, regarding self-imposed hardship, not creating an imposition on adjacent properties, not creating an undue benefit, and special circumstances. Ms. Lumpkin stated staff's recommendation is to deny the request..

Questions from the Board of Adjustments

Vice-Chairman Johnston asked if any changes had been made since the original plat was recorded or original CC&R's were written.. Ms. Lumpkin responded that after staff research of the property, staff is not aware of any changes that have been made to either the plat or CC&R's.

Chairman Gardner requested clarification on where the rear yard and side rear yard setbacks begin. Ms. Lumpkin responded the southernmost boundary and easternmost boundary are where the setbacks begin according to the recorded plat.

In response to a question from Chairman Gardner, Ms. Lumpkin stated that the horse trail is on the south side of the property.

Presentation by Applicant

Mr. Bradley Actipis of 22837 South 194th Place, Queen Creek, made a presentation to the Board including photos of the existing setbacks on his property, as well as the neighbors' setbacks, and the adjacent equestrian trail. Mr. Actipis stated his case in point is that he lives on a cul-de-sac lots, and all cul-de-sac lots are configured differently, which makes his lot unique. He stated his footprint is limited since he has three 40-foot setbacks, as opposed to a typical lot that has two. In addition, Mr. Actipis stated all surrounding neighbors have provided their signatures in support of the variance as requested.

Questions from Board of Adjustments

Board Member Steinhauer asked for confirmation that the garage could be placed in a different location on the property, according to the staff report attachments. Mr. Actipis responded that as a pool sits on the property, he feels there is no other possible location for the garage. He added that he planned and built his home appropriately to plan for the garage to sit where he is now proposing.

There were questions about whether or not staff had been provided a list of signatures from the neighbors, as the staff report to the Board did not include one. Staff did not include a list in the packet, but deferred to Mr. Actipis, who stated he included the list with his application.

Board Member Lopez asked if staff had an artists' conception that shows an acceptable configuration of the garage. Ms. Lumpkin responded that staff does not have a rendering, however, the garage can be adjusted to come within Town standards if the height is reduced, or the garage is pivoted to meet the encroachment requirements.

Planning Manager Fred Brittingham pointed out that the main issue for consideration is whether this is a self-imposed hardship, which staff feels it is due to the homeowner's choice of size and location of the house and proposed garage.

Staff believes there are other options for accomplishing this without requiring a setback variance.

In response to a question from Board Member Schuett, Ms. Lumpkin clarified an apparent inconsistency between Lot 49 and the equestrian trail, and Lot 52 and the trail.

Clarification was made by staff regarding the required three-foot setback in relation to the 15-foot height of the proposed garage. Mr. Brittingham stated that if the height is below 15 feet, than a setback up to three feet is acceptable; if the height is above 15 feet, the structure must meet setbacks of the lot.

It was the consensus of the Board that this is a self-imposed hardship to the existing setbacks, as opposed to an unfair imposition to the applicant. Board Member Johnston added that it is his feeling that all four of the required criteria has not been met.

Motion: **Vice-Chairman Johnston**

To deny the variance as requested by Mr. Bradley Actipis for the property located at 22837 South 194th Street, Queen Creek, Case Number BA02-05 or reasons that it does not meet all four criteria set forth in the Queen Creek Zoning Ordinance.

Second: **Board Member Lopez**

All ayes. (5-0) Motion carried.

The request was denied.

Chairman Gardner thanked Mr. Actipis for his presentation and stated he has the right to appeal to the State Supreme Court within the next 30 days.

Mr. Actipis thanked the Board.

V. Adjournment

There being no further business to come before the Board of Adjustments, the meeting was adjourned at 7:05 P.M.

Bryant Gardner, Chairman

Laura Moats, Administrative Assistant