

**NOTE: THESE ARE DRAFT MINUTES, WHICH HAVE NOT YET BEEN APPROVED. THEY WILL BE APPROVED AT THE NEXT BOA MEETING.**

## MINUTES

### BOARD OF ADJUSTMENTS HEARING TOWN OF QUEEN CREEK

6:30 P.M., Thursday, November 10, 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: Planning Manager; Fred Brittingham, Dennis Cady, Principal Planner, and Laura Moats, Administrative Assistant.

#### III. Approval of Minutes

The minutes of the August 22, 2005 Board of Adjustments Meeting were presented for review and approval.

Chairman Gardner noted a typographical error on page 3 of the minutes, under the Motion language: "...or reasons that it does not meet all four criteria...." Should read "FOR reasons that it does not meet all four criteria...".

**Motion:** Johnston

**To approve the August 22, 2005 Board of Adjustments Minutes, with the correction of the above language.**

**Second:** Lopez

**Vote:** All ayes. (5-0) Motion carried.

**IV. Public Hearing:**

**BA 04-05:** A request submitted by Randy and Roxann Broshears to appeal the Zoning Administrator's interpretation of the Zoning Ordinance to allow an auto repair business to operate as a similar use as an existing legal non-conforming trucking operation in the R1-43 Zoning District. Site location is 21616 S. Crismon Road (Assessor's Parcel Number 304-66-002-G)

Principal Planner Cady gave a presentation covering the staff report. Mr. Cady noted the site is located near an SRP gas line easement. The applicant's parcel was included in the Town of Queen Creek's incorporation in 1989, at which time a trucking operation was being run at the site. The trucking operation supported surrounding agricultural uses and truck repair were conducted as an ancillary activity to the trucking operation.

Mr. Cady pointed out the issue being presented to the Board is a question of Interpretation of Similar Uses.

Staff's position is that according to Article 7.2a, the use cannot be expanded, enlarged, or changed. Staff's position is that this is not a similar use to the existing trucking operation.

*Questions from the Board*

Board Member Steinhauer asked for clarification on whether or not this is a variance. Mr. Cady responded that it is not a variance. It's an interpretation of uses.

Board Member Schuett asked how long the trucking business has been operational. Mr. Cady responded about three months.

Board Member Lopez asked if the four large garages shown on the presentation were existing prior to the Town's incorporation. Mr. Cady responded yes.

Board Member Steinhauer asked if another trucking operation on this site would be allowed; is performance racecar restoration allowed? Mr. Cady responded yes to both.

Board Member Lopez asked if the ancillary uses are For Profit or Not-For-Profit. Mr. Cady did not know.

Presentation by Applicant

Ms. Roxann Broshears addressed the commission to further explain her request.

Ms. Broshears stated the property was set up for operating a business. There is no plan to add or expand, but just to use the existing building and make improvements in order to operate as a NAPA automotive repair business. Ms. Broshears stated that the improvements would be similar to what already exists. Landscaping would be installed along the front of the property. The property does need to be cleaned up. The Broshears plan on living in the existing house on the property. The property is currently fenced in with barbed wire fencing, which will be replaced by a wall. The applicant stated that SRP will be installing a wall all the way around the property; and there will be a 100-foot greenbelt around the property as well.

The applicants feel this use will benefit the community, as it will be a gain in service, and they feel that Queen Creek is in need of an auto repair business. They have built-up clientele from the surrounding areas of Power Ranch, Johnson Ranch, Globe, San Tan Heights, and Chandler Heights.

Proposed hours of operation would be Monday through Friday 8 a.m. to 5:00 p.m., and possibly Saturdays from 8 a.m. to 12 p.m. The applicant feels this is a better use than the existing trucking operation, since with the trucking operation there is a lot of noise and fumes from large diesel semi-trucks. The trucks run all hours. The automotive business would be a significant decrease in operational hours.

Board Member Steinhauer asked who would be installing the block wall. The applicant responded that SRP will contract with a company to install the wall on the south, east and north perimeters of the property. The applicant plans on installing the wall along the west side.

Board Member Steinhauer asked what the current zoning is across the street. Mr. Cady answered it is R1-43 zoning, which does not accommodate signage for NAPA, Arizona Japanese Motors, or anything else. The applicant responded that not having any signage allowed would not be an issue.

Board Member Johnston expressed his opinion that the property appears to be a good candidate for commercial zoning due to the fact that the existing gas lines will preclude any development. He asked if rezoning the property had been discussed.

Mr. Cady responded that rezoning would require a General Plan major amendment. The Town Council would be the voting body on the requested rezoning.

Board Member Steinhauer asked why this could not have been presented as a rezoning? Planning Manager Brittingham responded that the request would qualify as a major General Plan amendment, which has an annual deadline of June 15, 2005. The case would not just be a rezoning issue.

Chairman Gardner opened the Public Hearing.

Mr. Don MacDonald stated for the record that the property is actually two separate parcels: the residence being on one parcel and the business on the other; however the two pieces were purchased as a whole.

The Public Hearing was closed.

There was dissention among the Board Members, with some feeling the requested use is a similar use, and others thinking the requested use is not similar to a trucking operation. Everyone agreed there are extenuating circumstances, and felt that the implementation of stipulations should be explored.

Discussion ensued on the specific definition of "similar" uses, and the advantages and disadvantages of approving the applicant's request.

Planning Manager Brittingham provided options and suggested stipulations to the Board Members.

Brief discussion followed on fencing and whose responsibility it would be to install the wall on the south side of the property.

Planning Manager Brittingham clarified for the applicant that no signage would be allowed, as well as no expansion of the business (i.e. addition of stalls/bays).

**Motion:**                    **Board Member Lopez**

**To approve the applicant's request for operation of an auto repair business as a legal non-conforming similar use to the previous trucking operation in the R1-43 zoning designation at 21616 S. Crismon Road, Queen Creek, subject to the following stipulations:**

- 1) The allowed hours of operation would be 7am to 6 pm M-F, 8am to 12 pm Saturday; No Sunday hours;**
- 2) A block wall be installed along the entire perimeter of the property (whether by SRP or property owner);**
- 3) 15-gallon trees, 25-feet on center, with irrigation must be installed along the fence/wall within three months after installation of the wall.**
- 4) The property must be maintained in a weed-free, dust-free manner.**

**Staff reserves the right to have the applicant return for further review in one-year to monitor compliance or non-compliance with the above-named stipulations.**

**Second:**                    **Board Member Steinhauer**

**Vote:**                    **(3-2, Johnston and Schuett voting "Nay") Motion carried.**

Chairman Gardner informed the applicant they have 30 days in which to appeal the decision of this Board to the Arizona State Superior Court.

This portion of the meeting adjourned at 7:35 P.M.

**Public Hearing**

**BA03-05:** A request by Scott Burns on behalf of Subway, for a variance from the Zoning Ordinance to amend the definition of “Frontage/Exposure, Building” in conjunction with a variance request to allow for building signage to exceed maximum square footage requirement [Zoning Ordinance Article 6.16-C-1.f (3) and Article 6.16-I-2, and Article 6.16-O]. The subject property is located at the southwest corner of Power and Chandler Heights Roads at 23670 South Power Road, Suite 101.

Planning Manager Brittingham presented the staff report for the request from Scott Burns on behalf of Subway, 23670 S. Power Road, Queen Creek, AZ.

The applicant is allowed to use the existing monument sign for the Bashas’ Center. Photos of the Subway location and the existing signage were reviewed.

Staff’s position is that there is no hardship to the applicant.

Questions from the Board of Adjustments

Board Member Lopez asked if the freestanding monument sign counted against the allowable sign frontage. Planning Manager Brittingham responded it does not count against the allowable sign frontage.

Board Member Johnston questioned cutting the size of the sign down to half. Planning Manager Brittingham clarified that the applicant’s options are to either cut down the size of the existing sign in half to allow the same size sign in a second location, or just move the existing sign to a more prominent location.

Chairman Gardner questioned if the direction that the storefront faces makes a difference as to allowable signage. Planning Manager Brittingham explained that buildings located at intersections are recognized as corner buildings in the Sign Code. As such, those buildings are typically free-standing and not part of a shop which is leasing “space” in a strip mall, with a portion of the strip mall frontage.

Presentation by Applicant

The applicant was not present.

Chairman Gardner opened the Public Hearing. There being no public comments, the Public Hearing was closed.

**Motion:** Board Member Schuett

To deny the request of the applicant, as the four requirements for approving a hardship have not been met.

**Second:** Board Member Schuett

**Vote:** All ayes. (5-0) Motion carried.

Board Member Lopez asked if the Sign Code is published on-line. Planning Manager Brittingham responded that Article 6.16 is the specific location of the Sign Code in the Town of Queen Creek Zoning Ordinance, and it is published on the Town's web site [www.queencreek.org](http://www.queencreek.org).

V. Adjournment

There being no further business, the meeting adjourned at 7:50 P.M.

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Bryant Gardner, Chairman

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Laura Moats, Administrative Assistant