



BOARD OF ADJUSTMENT HEARING  
TOWN OF QUEEN CREEK

6:00 P.M., Thursday April 23, 2009

Town of Queen Creek  
Council Chambers  
22358 S. Ellsworth Road  
Queen Creek, Arizona

I. **Call to Order**

The meeting was called to order by Chairman Lopez at 6:01 p.m.

II. **Roll Call**

At roll call, there was a quorum of four (4) Board members: Chairman Lopez, Board Member Steinhauer, Board Member Fritz, and Board Member Schuett. Absent: Board Member Roach.

Town Staff: Principal Planner Fred Brittingham, Planner Dave Williams, Senior Administrative Assistant Sherry Perez.

III. **Consideration and Possible Approval of Minutes**

Motion: Board Member Fritz.

To approve the August 12, 2008 meeting minutes as presented.

2<sup>nd</sup>: Board member Schuett. All ayes. Motion carried 4-0.

IV. **Public Hearing**

**BA09-017, "AZ Auto Repair"**: A request by Randy and Roxann Broshears (applicant) of AZ Auto Repair to extend the time limit to install a six-foot (6') solid masonry fence on the south and west property line of their auto repair facility. The property is located at 21600 and 21616 S. Crismon Road, and is in a R1-43 Zoning District.

Staff Presentation

Planner Dave Williams distributed an email and two letters he had received late in the day, from Mrs. Jane Craig at 18850 E. Via de Palmas (in opposition); Gordon and Karen Schuller at 18719 E Chandler Heights Rd (in favor); and Lillian Loper at 18744 E. Chandler Heights (in favor). 2

Principal Planner Brittingham presented the staff report.

Applicant's Presentation

Randy Broshears addressed the Board and explained why the wall had not been installed. He cited the poor economy, along with a continuing dispute with the adjacent property owners. The applicant requested a one year extension.

The Public Hearing was opened. There was no public comment, and the public hearing was closed at 6:14 p.m.

Board Member Fritz recalled giving the Broshears a 90-day time frame to complete the wall in December of 2007.

Vice-Chairman Steinhauer inquired if Mr. Broshears attempted to contact the developer adjacent to the property and speak with them about leveling the land where the fence needs to be located. Mr. Broshears responded that he and his wife have tried, but were not successful and have now had to have their attorney involved. Vice-Chairman Steinhauer asked if this would be a matter that the Town would be involved in. Mr. Brittingham stated that the Town would see this as a civil matter and the Town would not be involved.

Chairman Lopez expressed his concerns stating that staff has been more than patient. He inquired from staff if the applicant could file another request. Mr. Brittingham stated that the applicant does have the right to file another request; however the Board can deny it. If the applicant disagreed with the Board decision, they would have the option of taking the issue to court.

Motion: Board Member Fritz

To allow a six-foot masonry fence to be built along the southern property line from the western property line; then northward to the point of lot split line for the commercial use. Building permits for the fence need to be obtained by May 23, 2009 and construction completed by June 23, 2009. Landscaping consisting of 15-gallon trees, 25 feet on-center must be installed within 3 months of fence completion. Details of the fence shall be resolved with staff before the issuance of a permit.

2<sup>nd</sup>: Board Member Schuett

All ayes. Motion carried 4-0.

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**BA09-019, “Jackson Fence”**, A request by Jasper Jackson for a variance at 18823 E. Chandler Heights Road, to allow a six-foot (6’) solid masonry fence at the front property line in the R1-43 Zoning District.

Staff Presentation

Planner Dave Williams presented the staff report.

Board Member Schuett asked staff if the applicant was aware of the denial. Mr. Williams stated that yes he reviewed the redline comments with Mr. Jackson at the front counter.

Vice-Chairman Steinhauer questioned if there had been multiple reviews. Mr. Williams responded yes; the reviews were done by both the Engineering and Planning Divisions. The applicant was also provided with a copy of the building code which was cited on the redlines.

Applicant’s Presentation

Mr. Jackson’s daughter, Michelle Jackson, spoke in behalf of her family. She stated that the family should be allowed to keep their existing six-foot masonry wall on their property line. Ms. Jackson expressed her family’s confusion in working with Town Staff to obtain a building permit. She cited safety concerns due to the family’s race. She said vandalism and trespassing had occurred on the property which is why the wall was constructed.

Vice-Chairman Steinhauer asked Ms. Jackson if her father understood the design of the fence was to be part view fencing. Ms. Jackson stated, “yes”, to her knowledge her father did understand the view fencing, however for safety reasons he built a solid brick fence instead.

Board Member Fritz asked why a solid brick fence was necessary. Ms. Jackson stated that due to the trespassing and vandalism on the property her father felt that he needed to protect his family.

Board Member Fritz asked if the Sheriff’s Department had been contacted when these types of events occurred and, if so, what the outcome was. Ms. Jackson responded that yes the Sheriff’s Department was contacted, however nothing was resolved.

Chairman Lopez opened the public hearing at 6:40 p.m.

Ms. Katherine Jackson from Chandler spoke in favor of her father being allowed to keep the 6' solid fencing for the safety of her family. She stated that there were several existing six-foot walls along Chandler Heights Road in the same area near her father's property.

Staff advised the Board that the location of the walls Ms. Jackson referred to are in the back of properties of older homes that were constructed under the jurisdiction of Maricopa County. These homes backed onto the road, rather than the front yards facing the road.

Mr. Koby Stewart (nephew of Mr. Jackson) spoke in favor of the request; citing that the wall causes a reduction in noise from Chandler Heights Road and feels this is another reason for the wall to remain.

Mrs. Daisy Roberts - in favor

Mr. Robert Grippin, a neighbor to the Jacksons, spoke in favor of the request

The public hearing was closed at 6:54 p.m.

Board Member Fritz asked staff if expansion of Chandler Height Road would affect the fencing requirement.

Planner Dave Williams stated that it would not change the fencing requirement.

Vice-Chairman Steinhauer asked staff if the fence needed to match the cosmetics of the house. Mr. Williams responded that due to Mr. Jackson's property being in an older subdivision it would not need to match the house.

Motion: Vice-Chairman Steinhauer

Motioned to deny BA09-019; Jackson Fence request, and that the fence be brought into compliance with a design of 3' solid masonry with up to 3' view fencing in the form of wrought iron or vinyl for a total of 6' overall height. The Board also requested that staff work with the Jackson's to complete the wall modifications by June 23, 2009.

2<sup>nd</sup>: Board Member Schuett

All ayes. Motion carried 4-0.

IV. Adjournment

Motion: Board Member Schuett.

To adjourn.

2<sup>nd</sup>: Vice Chairman Steinhauer.

Vote: All ayes. Motion carried (4-0)

The meeting adjourned at 7:07 p.m.

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Chuck Lopez, Chairman

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Sherry Perez, Sr. Administrative Assistant

I, Sherry Perez, do hereby certify that, to the best of my knowledge, the foregoing Minutes are a true and correct copy of the Minutes of the April 23, 2009 Board of Adjustment Meeting. I further certify that the meeting was duly called and that a quorum was present.

Dated this 23<sup>th</sup> day of April, 2009.

Passed and Approved this 23rd day of April, 2009.