



# City of Apache Junction, Arizona

## Meeting Minutes Board of Adjustment

Meeting Location:

City Council Chambers  
at City Hall  
300 E Superstition Blvd  
Apache Junction, AZ

www.ajcity.net  
Ph:(480) 982-8002

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Monday, September 11, 2017

7:00 PM

City Council Chambers

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### NOTICE OF PUBLIC MEETING AND EXECUTIVE SESSION AND AGENDAS OF THE BOARD OF ADJUSTMENT MEETING OF THE CITY OF APACHE JUNCTION, ARIZONA

#### 1. CALL TO ORDER

Vice Chair Schoenbeck called the meeting to order at 7:00pm.

#### 2. PLEDGE OF ALLEGIANCE

Vice Chair Schoenbeck led the Pledge of Allegiance.

#### 3. ROLL CALL

**Present**                    4 -     Board Member Booth  
   Vice Chair Gage  
   Board Member Weeter  
   Chairperson Schoenbeck

**Excused**                    1 -     Board Member Jones

#### 4. ACCEPTANCE OF AGENDA

[17-370](#)                    Consideration of approval of agenda.

Board Member Gage motioned that the Board of Adjustment accept the Consent Agenda as presented and approve the meeting minutes from the June 13, 2016 Regular Meeting. Board Member Booth seconded the motion. The Board of Adjustments approved the motion with a 4-0 vote.

**Yes:**                    4 -     Board Member Booth, Vice Chair Gage, Board Member Weeter and Chairperson Schoenbeck

**No:**                    0

**Excused:**            2 -     Board Member Jones and Burgess

#### 5. ACCEPTANCE OF MINUTES

[17-366](#)                    Consideration of approval of meeting minutes of June 13, 2016.

Board Member Gage motioned that the Board of Adjustment accept the Consent Agenda as presented and approve the meeting minutes from the June 13, 2016 Regular Meeting. Board Member Booth seconded the motion. The Board of Adjustment approved the motion with a 4-0 vote.

**Yes:** 4 - Board Member Booth, Vice Chair Gage, Board Member Weeter and Chairperson Schoenbeck

**No:** 0

**Excused:** 2 - Board Member Jones and Burgess

**6. MOTION FOR EXECUTIVE SESSION IN THE DEVELOPMENT SERVICES CONFERENCE ROOM.**

Vice Chair Schoenbeck convened the Board of Adjustment to an Executive Session in the Development Services Department Conference Room for the purpose of discussion/consultation with the city attorney for the purposes of legal advice regarding BA-1-17 and BA-2-17 in accordance with A.R.S. § 38-431.03 (A)(3) and as further outlined in this agenda.

Vice Chair Schoenbeck reconvened the meeting at 7:18pm.

**7. PUBLIC HEARINGS**

17-376

Presentation, discussion, public hearing and possible action on case BA-1-17, a request by Richard and Beverly Spurgeon for a variance to the side yard setback requirements, as part of a proposal to also redesignate the front yard and re-address the property from S. Hopi Road to E. 4th Avenue. The property is currently addressed as 336 S. Hopi Road (Parcel No. 101-22-0460).

Senior Planner Esquivias gave a presentation on case BA-1-17, a request by Richard and Beverly Spurgeon for a variance to the side yard setback requirements, as part of a proposal to also redesignate the front yard and re-address the property from S. Hopi Road to E. 4th Avenue. The property is currently addressed as 336 S. Hopi Road (Parcel No. 101-22-0460).

Having no questions from the board, Vice Chair Schoenbeck invited the applicants to address the board.

Richard Spurgeon, 336 S. Hopi Road, addressed the board. Mr. Spurgeon added that sometimes he doesn't receive his mail because the post office returns it to the sender.

Vice Chair Schoenbeck invited David Johnson to address the board. David Johnson, 467 S. Royal Palm, addressed the board. He thought the case involved developing the wash. He now understands and agrees with the applicant's request.

Vice Chair Schoenbeck closed the public hearing as no one else wished to address the board.

Having no opinions from the board, Vice Chair Schoenbeck asked for a motion.

Board Member Gage made a motion that case BA-1-17, a request by Richard and Beverly Spurgeon for the Board of Adjustment and Appeals to grant a variance pursuant to the City of Apache Junction Zoning Ordinance Section 1-16-4, requesting to encroach 5 feet into a required 10-foot side yard setback for a detached garage, which will result with a future address change for the property currently addressed as 336 S. Hopi Road (Parcel #101-22-046), be APPROVED, subject to the following conditions: 1) That all future construction on the property continue to be properly permitted and be in compliance with normal setback regulations and flood zone requirements, and 2) That the property owners work with Public Works personnel and their immediate neighbors to the east to explore the possible relinquishments their mutual frontages on S. Hopi Road. Findings of Facts are 1. There are special circumstances or conditions applicable to the property referred to in this application which do not prevail on other property in that zone or immediate area. Those special circumstances or conditions include: a) The property is encumbered by a natural wash which makes it difficult to find and access; and b) The home is the only residence served by a road which is not maintained by the city, nor marked, making it difficult to find, especially by emergency personnel. 2. The strict application of the regulations would work an unnecessary hardship and the granting of the application is necessary for the preservation and enjoyment of substantial existing property rights, because: a) The applicants are requesting a reasonable variance which affects only one side of a properly permitted building; and b) Property owners have a reasonable expectation that emergency providers can find them in time of need. Board Member Booth seconded the motion. All in favor.

**Yes:** 4 - Board Member Booth, Vice Chair Gage, Board Member Weeter and Chairperson Schoenbeck

**No:** 0

**Excused:** 2 - Board Member Jones and Burgess

17-375

Presentation, discussion, public hearing and possible action on case BA-2-17, a request by David Dixon, for a variance to deviate from the General Rural Low Density Single-Family Residential (RS-GR) Zoning District's main structure side setback. Specifically, the applicant requests to change the main structure side setback from 20 feet to 10 feet at 611 S. Vista Road.

Assistant Planner Bubenheim gave a presentation on case BA-2-17, a request by David Dixon, for a variance to deviate from the General Rural Low Density Single-Family Residential (RS-GR) Zoning District's main structure side setback. Specifically, the applicant requests to change the main structure side setback from 20 feet to 10 feet at 611 S. Vista Road.

City Attorney Stern asked Assistant Planner Bubenheim to review the general law and use Senior Planner Esquivias' items so they become part of the official record.

Assistant Planner Bubenheim read the requested information.

Vice Chair Schoenbeck asked the board member's if there are any questions for Assistant Planner Bubenheim.

Board Member Gage asked for more explanation of the federally patented easements and why Centurylink has a private easement. Assistant Planner Bubenheim explained that federal patented easements were issued by the government so they are public easements. Any utilities can put their services through the easement. All of the utilities relinquished their rights to put anything through the easement. The easement is essentially gone. Centurylink wanted an eight-foot easement so it is now a private utility easement just for them. She added that it doesn't affect the setbacks.

Having no further questions, Vice Chair Schoenbeck invited the applicant to address the board.

David Dixon, 611 S. Vista Road, addressed the board. He explained the house is where it is now but the trailer was a mobile home, not a manufactured home and was placed there in 1964 and grandfathered in because it was put only 10 feet off of the line, not 20 like she stated. He also said the foundation was put in between 1964 and 1967. He said the county inspector came up three different times and measured the actual outside wall dimension and agreed with it. He says it has been there since 1967 in the shape and position it is now. Vice Chair Schoenbeck asked if it was the foundation only. Mr. Dixon replied yes, he didn't add foundation, just put a roof over it. He added he put new wall board and just put a roof over the top of it. He said he removed the trailer and as a result there was a big hole through the wall and he put up a few pieces off old plywood so people couldn't walk through it. He said everything is grandfathered in where it is right now.

Director Kirch showed the drawing that was submitted to get a building permit for a building in 2001 and asked the applicant if he is saying the drawing is incorrect. Mr. Dixon replied that he doesn't know who drew that. Director Kirch asked the applicant if he was the owner in 2001 and if he applied for a permit for the accessory structure. Mr. Dixon replied that he did not own it in 2001. It was his mother's. Director Kirch asked if his mother applied for the permit for the accessory structure. Mr. Dixon replied she must have applied for a permit for the garage building.

Director Kirch explained to the board that staff is relying on the drawing that was submitted in 2001 that depicted that the existing mobile home was setback 20 feet. He explained that he feels Mr. Dixon is saying the building is at 10 feet, not 20 feet.

Vice Chair Schoenbeck said that if the mobile home was set back at 10 feet and then you built

outside of it to build on. The applicant said his mother and father built the foundations to the east and west and had nothing to do with the mobile home.

Board Member Booth asked the applicant about the electrical panel. Mr. Dixon said the electrical just stopped working. He called SRP and was told his service is undersized and suggested he request upgraded service be brought to the property and go underground instead of overhead. Board Member Booth asked him how the electrical became undersized. Mr. Dixon replied that in the past his parents ran undersized wire but was required at the time. He added that now since there is a roof over it, it is now considered a house and therefore the size of the electrical is undersized. Mr. Dixon added that the inspector told him now it's a house and requires larger service. Board Member Booth asked if that was the time it was deemed a house instead of a mobile home. Mr. Dixon replied that it isn't really a home at this point, just walls. The entire interior is gutted because there is no mobile home in it. Board Member Booth asked if Mr. Dixon had any proof of where the original foundation was located. Mr. Dixon replied that it was his mother and the garage isn't as close as the drawing suggests. Board Member Booth asked Mr. Dixon if he had his electrical fixed. Mr. Dixon replied no. Board Member Booth asked why the applicant didn't get a building permit when he started working on the foundation. Mr. Dixon replied that his mother called and asked if she needed a permit to reroof her mobile home. She was told she didn't need one. Mr. Dixon replied that since she didn't need one, he felt he didn't need one also. Board Member Booth replied that it's a long way from reroofing a mobile home than building a house around it. Mr. Dixon replied that it had the existing walls that his father built.

Director Kirch, while looking at the drawing, asked Mr. Dixon about where the roof was built and if the corner says patio cover and where the corner of the mobile home is located. Mr. Dixon replied that the corner of the patio cover was 10 feet away, not the corner of the mobile home. Mr. Dixon added that the mobile home was 12 feet off.

Mr. Kirch addressed the commission regarding the lack of a survey on the property and how difficult it is to determine the actual placement of structures.

Vice Chair Schoenbeck asked Mr. Dixon what the square footage is of the current roof. Mr. Dixon replied between 1800 and 1900 square feet.

Vice Chair Schoenbeck asked if the board had any other questions.

Vice Chair Schoenbeck invited Mr. Ed Lucero, 10579 E. Bluebird, Gold Canyon, a registered architect with the State of Arizona to address the board regarding Mr. Dixon's application. Mr. Lucero presented the board with pictures of Mr. Dixon's house and roof construction.

Vice Chair Schoenbeck closed the public hearing portion of the item.

Vice Chair Schoenbeck asked the board for comments.

Board Member Gage asked to review the time frame of this application. Assistant Planner Bubenheim replied that Pinal County Assessor's information shows the mobile home was placed there in 1964. She added that at that time the area was Pinal County. The City of Apache Junction was incorporated in 1979 and the first zoning ordinance was passed in 1985. Board Member Gage asked about the drawing from 2004. Assistant Planner Bubenheim replied that there are Google Earth images that go back a couple of years adding that the best one she could get for showing the previous manufactured home without being too blurry was 2004. Board Member Gage confirmed the date of the current picture was from 2017. City Attorney Stern corrected the incorporation date of the city as 1978.

Vice Chair Schoenbeck ask for comments from the board. Board Member Gage replied that he

feels its more than just a roof on a mobile home and even though it's very well built it still should have been permitted and treated like a normal property.

Board Member Booth said this is against part of their charges as the Board of Adjustment and that we can't get into granting a variance when there is a self-imposed issue and feels the applicant should have applied for a building permit long before going this far.

Board Member Gage also agreed.

Board Member Gage motioned that case BA-2-17, a request by David Dixon for the Board of Adjustment and Appeals to grant a variance of Section 1-5-2 Residential Bulk Regulations requesting a deviation for the main structure side setback in the RS-GR Zoning District be denied subject to the following conditions and findings of fact: Findings of Fact: 1. There are not special circumstances or conditions applicable to the property referred to in the application which merit an appeal of the city's codes; 2. A building permit was not applied for prior to construction of a new structure. 3. All matters of improper placement of new structures and setback problems are self-imposed. Board Member Booth seconded the motion. The board denied the request with a 4 - 0 vote.

Yes: 4 - Board Member Booth, Vice Chair Gage, Board Member Weeter and Chairperson Schoenbeck

No: 0

Excused: 2 - Board Member Jones and Burgess

## **8. OLD BUSINESS**

None.

## **9. NEW BUSINESS**

None.

## **10. INFORMATION AND REPORTS**

None.

## **11. SELECTION OF MEETING DATES, TIMES, LOCATION AND PURPOSE**

Vice Chair Schoenbeck announced the next meeting is October 9, 2017 at 7:00 pm in the city of Apache Junction City Council Chambers located at 300 E. Superstition Boulevard.

## **12. ADJOURNMENT**

Adjournment:

Meeting adjourned at 8:17 p.m.

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Vice Chair Frank Schoenbeck  
Chairperson