

**MINUTES
ORO VALLEY BOARD OF ADJUSTMENT
REGULAR SESSION
DECEMBER 20, 2011
HOPI CONFERENCE ROOM
11000 N. LA CAÑADA DRIVE**

CALL TO ORDER AT OR AFTER 3:00 PM

Chair Hoy-Johnson called the meeting to order at 3:00 p.m.

ROLL CALL

PRESENT: Sandra Hoy-Johnson, Chair
Mike Zinkin, Vice Chair
Jeremy Christopher, Member

EXCUSED: Jimmy Fields, Member
Paul Parisi, Member

ORDER OF BUSINESS

MINUTES: APPROVAL OF THE OCTOBER 25, 2011, MINUTES

MOTION: A motion was made by Vice Chair Zinkin and seconded by Member Christopher to approve the October 25, 2011 minutes.

MOTION carried, 2-0.

PUBLIC HEARING:

1. [Request for a variance for property located at 9380 N. Calle El Milagro, Oro Valley, AZ 85737.](#)

Chair Hoy-Johnson swore in the applicant, Karen Steinbronn.

Mrs. Steinbronn made the following comments in support of the variance request:

- Home was purchased primarily due to the well and size of the property
- Plans to establish an organic or naturally grown garden
- Accessory structure will house one horse
- Best location is towards the front of the property due to setback of the house
- Special circumstance exists due to the location of home compared to neighboring property, which existed before they bought the property
- Location of the accessory structure should not be a hindrance to neighboring

properties, due to the natural vegetation in the front yard.

Mrs. Steinbronn noted concerns in regards to the Staff Report:

- Section A: Did not include two properties that border to the south and east that are less than 100 ft. from the front setback.
- Section C: They have no plans to raise or graze horses. They want to keep the garden in the rear yard due to the irrigation system from the well. There are no alternative locations due to: the southeast extension of the property is 158 ft. wide and would require solid fences on two sides. Located on that section of property are the water system and driveway access to Tucson Electric Power (TEP) equipment.
- Section D: The homes to the north and south on N. El Calle Milagro are approximately 200 ft. from the front property line, which allows accessory buildings on the side of their homes without requiring a variance.
- Section E: Setbacks are not the same as their property. The streetscape is already altered based on the Town of Oro Valley's Road Maintenance Building, located 300 ft. from them.

Member Christopher inquired as to whether there was a TEP easement. Mrs. Steinbronn said she did not know, but that TEP has access through their property.

Vice Chair Zinkin asked how it would affect the Steinbronn's plans if the structure was built where it met the code. Mrs. Steinbronn said since the property was zoned for agriculture, their plan was to significantly increase the garden. She said a partial greenhouse, underground water, and irrigation system exist on the property, and they would have to invest in a pump and tank to bring water to the front of the property.

Chair Hoy-Johnson asked if there was any neighbor feedback. Mrs. Steinbronn said there were no neighbors that were opposed to the variance.

Karen Berchtold, OV Senior Planner, presented the following:

- Location Map
- Zoning Map
- Aerial Map
- Variance Request
- Site Photos
- Staff Analysis
- BOA Findings

Chair Hoy-Johnson questioned staff in regard to the statement made by the applicant regarding Section A of the Staff Report.

Joe Andrews, OV Chief Civil Deputy Attorney, responded that a house can be built up to 50 ft. from the front lot line, the setback in the R1-44 zone.

Member Christopher inquired about the TEP easement.

Del Steinbronn, applicant, said the property was surveyed and the TEP easements run along the back of the east side of the property.

Chair Hoy-Johnson opened the public hearing.

Karen Riker Harned, OV resident, said she walks past the property on a weekly basis and noticed that they were doing some clearing on the property and was pleased that they planned to set the structure back some distance. Ms. Riker Harned said she supports the variance request.

Sam Mintor, OV resident, is a neighbor to the north and a retired TEP executive. Mr. Mintor said that TEP has the right to access the property. Mr. Mintor said that one of the Oro Valley zoning requirements is that any structure used to house animals must be at least 100 ft. from the neighboring property. Mr. Mintor said that makes it difficult to place any structure in the back of the applicant's property. Mr. Mintor said the area is heavily vegetated, which would make the structure hardly visible. Mr. Mintor said he would like to see the variance granted and believed it would not impact anyone adversely.

Chair Hoy-Johnson closed the public hearing.

MOTION: A motion was made by Member Christopher and seconded by Vice Chair Zinkin to approve the request for a variance from Zoning Code Section 23.6.A.3.b to allow an accessory structure.

Member Christopher commented on the five findings as follows:

- Lot is L shaped, which makes it a unique property
- TEP constraint can not be ignored
- Staff notes in their report that other neighboring properties have more freedom of movement due to their rectangular shape
- Special circumstances were not created by the owner/applicant
- Property is zoned and allowed to be used for farm purposes and is a substantial property right
- There are other structures that are clearly closer to the road and debunk the staff's streetscape argument
- This variance is not materially detrimental to the other neighbors.

Vice Chair Zinkin said he was in agreement, but Arizona Statute states that we as a board can only approve variances when the five criteria are

met. Vice Chair Zinkin said there was ample area on the property to place the structure.

Chair Hoy-Johnson said when the statute was instituted it may have been a good idea at the time, but now the population has increased. Chair Hoy-Johnson said she thought there were alternative locations for the structure.

Member Christopher said the Board of Adjustment exists so that you can apply some subjective criteria to it. Member Christopher said it was clear to him that it was a uniquely shaped lot and by not approving this, we prevent the property owner from substantial property rights.

Vice Chair Zinkin said we are not talking about local zoning codes, but Arizona Statute. He asked staff if the Board would be delinquent by not applying all five of the criteria.

Chad Daines, OV Principal Planner, said all five criteria must be met. Mr. Daines said it is in the opinion of the Board, based on the evidence that is heard, as to whether the applicant has met the findings.

Chair Hoy-Johnson asked for staff's determination and view on the variance request. Mr. Daines said in the staff's opinion, there were other sites that were appropriate to allow their use of the property and not necessitate the need for the variance.

MOTION failed 1-2 with Chair Hoy-Johnson and Vice Chair Zinkin opposed.

MOTION: A motion was made by Vice Chair Zinkin and seconded by Chair Hoy-Johnson to deny the request for a variance from Zoning Code Section 23.6.A.3.b to allow an accessory structure for the property located at 9380 N. Calle El Milagro in the Linda Vista Citrus Tracts No. 2.

Member Christopher recommended to the Board that this variance request be continued until more Board members are present.

Vice Chair Zinkin withdrew the motion.

MOTION: A motion was made by Member Christopher and seconded by Vice Chair Zinkin to continue this case to the next scheduled Board of Adjustment Regular Session.

MOTION carried, 3-0.

2. [Planning Division Manager Update](#)

Mr. Daines updated the Board on the following:

Steam Pump Village Planned Area Development
St. Mark's Church
LA Fitness Submittal
Community Academy
Rancho Vistoso Parcel 7-I
Fry's Fuel Station Neighborhood Meeting
Sign Code Amendment - Planning & Zoning Commission
General Plan Amendment Mixed Use
General Plan Amendment on Neighborhood Meetings
Appointments to the Board of Adjustment

ADJOURNMENT

MOTION: A motion was made by Vice Chair Zinkin and seconded by Member Christopher to adjourn the meeting at 3:55 p.m.

MOTION carried, 3-0.

Prepared by:

Suzanne Molinar
Recording Secretary

I hereby certify that the foregoing minutes are a true and correct copy of the minutes of the regular session of the Town of Oro Valley Board of Adjustment of Oro Valley, Arizona held on the 20th day of December, 2012. I further certify that the meeting was duly called and held and that a quorum was present.

Dated this _____ day of _____, 2012.