

**TOWN OF BUCKEYE
BOARD OF ADJUSTMENT
TOWN COUNCIL CHAMBERS
100 NORTH APACHE ROAD / BUCKEYE, ARIZONA 85326
REGULAR MEETING MINUTES
April 8, 2008
6:00 P.M.**

1. CALL TO ORDER

Chairperson Napolitano called the meeting to order at 6:02 p.m.

2. ROLL CALL

Members present: Chairperson Napolitano, Vice Chairman Zwerg, Boardmember Hawley, Boardmember Jimenez, Boardmember Richardson, Alternate Boardmember Molina and Alternate Boardmember Carson served on the Board.

Members Absent: Boardmember Stafford, Boardmember Kempiak and Councilman Hardesty

Departments Present: Attorney Mark Langlitz, Management Assistant Claudia Herrera, Interim Fire Chief Bob Costello, Community Development Assistant Director Suparna Dasgupta and Town Engineer Woody Scoutten

3. APPROVAL OF MINUTES FROM FEBRUARY 12, 2008 REGULAR MEETING

A motion was made by Vice Chair Zwerg and seconded by Boardmember Carson to approve the minutes from the February 12, 2008 Regular Meeting. Motion passed

5. Signs Plus Variance VA07-15

Associate Planner Quinn Newton presented the item to the Board. Associate Planner Newton explained that the variance was being requested because the applicant wanted to install a sign 3 to 4 feet from the property line instead of the 10 feet required by the Development Code. Chairperson Napolitano asked if the sidewalk was on the property line. Associate Planner Newton explained that the sidewalk was not on the property. Chairperson Napolitano asked about the special circumstance. Associate Planner Newton explained to the Board that the state statute stipulates that they had to meet three requirements which are that there are special circumstances applicable to the property, including its size, shape, topography, location, or surroundings, whereby the strict application of the Development Code will deprive such property of privileges enjoyed by other property of the same classification in the same zoning district; such special circumstances were not created by the property owner or applicant; and the variance does not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and zone in which such property is located. Associate Planner Newton added that staff is not permitted to take a position on a variance and explained that he would not speak on their behalf with regards to special circumstances. Chairperson Napolitano asked if the applicant would be allowed to apply for a permit if the variance was denied. Associate Planner explained that they could still apply for a permit but that they would be required to make revisions to their site. Vice Chair Zwerg asked why signage was not planned earlier as the site is relatively new. Associate Planner Newton explained that he was unable to take a position on the case. Boardmember Hawley added that they were not asking him to take a position but to provide information as to why he thought that the planning for a sign had not occurred earlier. Associate Planner Newton said that he believed the owner did not plan for a sign when he submitted his site plan. Vice Chair Zwerg asked if signage was part of the administrative site plan approval process. Associate Planner Newton said that signage is part of commercial site plan process. The applicant, Mr. Kerry Boyer from Signs Plus explained that he was requesting the variance because installing the sign 10 feet into the property line would take up a parking spot in a congested parking lot, get hit by cars, provide signage for the businesses and moving it into the planter area would solve a lot of problems. Vice Chair Zwerg asked if the applicant was involved with the initial site plan submittal. Mr. Boyer said that his company was not involved at that time. Vice Chair Zwerg then asked if the 10 foot setback was part of the current Development Code. Associate Planner Newton explained that it was part of the current Development Code. Vice Chair Zwerg asked if the current or new Development Code had any verbiage about signage options. Associate Planner Newton explained that they have not revisited signage in the Development Code update. Assistant Director Suparna Dasgupta added that different Community Master Plans may have options that vary from the existing Code but nothing has been changed for typical development. Vice Chair Zwerg asked if the Code would be changed in May. Assistant Director Dasgupta

said that she was not sure because the new standards were still being developed. Boardmember Molina asked if the wall was the property line. Mr. Boyer said that the wall was the property line. Boardmember Molina then asked if the sign pole was setback 3 feet from the wall. Mr. Boyer confirmed that to be true. Boardmember Richardson asked about the distance from the proposed sign to the setback. Mr. Boyer explained that the leading edge of the sign was 8 to 10 inches from the wall. Vice Chair Zwerg asked if the request is for the placement of the sign pole. Mr. Boyer explained that it was the sign pole that is 3 feet from the wall. Chairperson Napolitano asked if the buildings had signs. Mr. Boyer said the businesses have two signs, one that faces the street and another facing the parking lot. Chairperson Napolitano then asked if there was a limited amount of signage for buildings. Associate Planner Newton explained that there are 2 criteria for commercial site plans that allow for one free standing sign and buildings are allowed one square foot of signage for every linear foot of street frontage of the business. Chairperson Napolitano asked if they met all the requirements for their 2 signs. Associate Planner Newton said they were in compliance with the building signage. Chairperson Napolitano then asked if they would still be allowed another sign. Associate Planner Newton said that according to the Code they would be allowed a free standing sign. Boardmember Carson asked what portion of the north side belonged to the owner and suggested that a sign could be placed in compliance on the northern edge of the property. Chairperson Napolitano said that the property the northern end faced a residential area and the sign would only be visible by the high school. Boardmember Molina asked if any other business in the vicinity had signs approved at less than 10 feet in the area. Associate Planner Newton said that he did not know of any other businesses. Attorney Mark Langlitz added that that the applicant was responsible for proving that there are other businesses, not the Town staff. Attorney Langlitz then explained that in order to grant the variance the Board had to find a special circumstance with the land related to either size, shape, topography, location or surroundings where the strict application of this provision of the Code, requirement that the sign be 10 feet set back from the property line, would deprive that property owner of the privileges enjoyed by other property of the same classification in the same zoning district. Attorney Langlitz said that the applicant had created this special circumstance by not planning for signs during the initial planning process and reminded the Board that a variance could not be granted if special circumstances are created by the property owner. A public hearing was opened at 6:23 p.m. Town Engineer Woody Scoutten expressed his concern that the location of the sign would be in an area reserved for public utilities easements to put underground utilities like power, electric and telephone. He added that the applicant would need to demonstrate if there was a public utility easement at this location and that there were no utilities in the way of installing the sign. Mr. Boyer said that he had the site blue staked by APS and that the utilities were found to be under the wall. There being no further comments from the public the hearing was closed at 6:25 p.m. A motion was made by Vice Chair Zwerg and seconded by Boardmember Stafford to deny the Signs Plus Variance on the basis that there is no evidence of a physical feature that caused the problem but rather the planning that did not take free standing signage into consideration and that the Development Code as written at the time the site was planned and currently clearly indicate a 10 foot setback. Motion passed unanimously.

6. ADJUORNMENT

There being no further business to come before the Board a motion was made by Vice Chair Zwerg and seconded Boardmember Stafford to adjourn the meeting at 6:26 p.m. Motion passed unanimously.

Annette Napolitano, Chairman

ATTEST:

Claudia Herrera, Management Assistant

I hereby certify that the foregoing is a true and correct copy of the Board of Adjustment Regular Meeting held on the 8th day of April, 2008. I further certify that a quorum was present.

Claudia Herrera, Management Assistant