

PERMANENT RECORD
TOWN OF CAREFREE
MINUTES of a PUBLIC MEETING of the BOARD OF ADJUSTMENT
MONDAY, MARCH 11, 2019
33 EASY STREET, CAREFREE ARIZONA

Commission Chairman Mascha called the meeting to order at 5:47 p.m.

COMMISSIONERS PRESENT:

Chairman	Al Mascha
Vice-Chairman	Tom Cross
Commissioner	Heather Burgett
Commissioner	Dan Davee
Commissioner	Lyn Hitchon
Commissioner	Scott Sperr

COMMISSIONERS ABSENT:

Commissioner Dick Tatlow

STAFF PRESENT:

Planning Director - Stacey Bridge-Denzak
Planning and Development - Clerk Flora Hayden

ITEM #1. APPROVAL OF MINUTES - Meeting of OCTOBER 8, 2018.

Board Member Hitchon **MOVED** to **APPROVE** the minutes as presented. **SECONDED** by Vice Chairman Cross, **PASSED** unanimously.

ITEM #2. PUBLIC HEARING, discussion, consideration and possible action on the following **REQUEST** for a **VARIANCE**. Public comments will be taken.

CASE #: 18-07-V

APPLICANT: Applicant:
Mr. Boyd Thacker
2637 East El Moro
Mesa, AZ 85204

CASE LOCATION: 39247 North Silver Saddle Drive
APN: 216-25-095

ZONING: Rural-190 Single Family Residential Zoning District
190,000 square feet minimum lot size

REQUEST: APPROVAL of a **VARIANCE** to the Zoning Ordinance standards to allow construction of a master bathroom, retaining wall, outdoor spa, and kiva fireplace in the side yard building setback where such improvements and structures are restricted and/or not allowed. The proposed request is as follows:

- 1) Allow encroachment of 5 feet 9 inches into the required 30-foot side yard setback for expansion of a master bathroom; and,
- 2) Allow encroachment of 1 foot 5 inches into the required 30-foot side yard setback and increase in wall height to 10 feet without terracing for construction of a retaining wall to build a rear patio; and,
- 3) Allow an outdoor spa and kiva fireplace within the side yard setback.

NOTE: The residence was built in 1977. This request is for relief from the **side yard** building setback requirements.

Planning Director Bridge-Denzak presented the staff report, displaying photos and drawings via PowerPoint to explain the request:

- The property is located at 39247 North Silver Saddle, Lot 91 of Cow Track Estates.
- The home was constructed in 1977 prior to the Town's incorporation and permitted under Maricopa County regulations at that time.
- The proposal is for an expansion of an existing master bathroom and closet to improve the livability of the residence. Also included is the expansion of an adjacent patio to provide outdoor uses such as a spa and fireplace.
- The retaining wall will not be visible from adjacent properties, and therefore eliminates the need to terrace and further impact the existing grade.
- The existing residence is less than 1 foot from the required 30-foot side yard setback.
- This is a legal nonconforming lot due to the limited frontage off of Silver Saddle and therefore, does not meet the development standards for an R-190 single family lot today.
- There is a significant wash that bisects the property and steep slopes, which is why the house was originally developed and positioned on the southern portion of the lot. This condition presents special circumstances for consideration.

Citizen participation requirements were met and Town staff did receive one e-mail in opposition to the project from a nearby property owner in neighboring Scottsdale.

Being no questions or comments from the Board, Chairman Mascha opened the public hearing for case **#18-07-V**.

Being no questions or comments from the public, Chairman Mascha closed the public hearing and called for a motion.

Vice Chairman Cross **MOVED** to **APPROVE** Case #18-07-V with conditions for approval, **APPROVAL** of a **VARIANCE** to the Zoning Ordinance standards to allow for the following:

- 1) Allow encroachment of 5 feet 9 inches into the required 30-foot side yard setback for expansion of a master bathroom; and,
- 2) Allow encroachment of 1 foot 5 inches into the required 30-foot side yard setback and increase in wall height to 10 feet without terracing for construction of a retaining wall to build a rear patio; and,
- 3) Allow an outdoor spa and kiva fireplace within the side yard setback.

MOTION SECONDED by Board Member Hitchon, **PASSED** unanimously.

ITEM 3: PUBLIC HEARING, discussion, consideration and possible action on the following **REQUEST** for a **VARIANCE**. Public comments will be taken.

CASE #: 18-11-V

Applicant:
Mr. Chris Pennino
7002 E. Languid Ln.
Carefree, AZ 85377

LOCATION: 7002 E. Languid Ln.
APN: 216-32-036

ZONING: Rural-70 Single Family Residential Zoning District
70,000 square feet minimum lot size

REQUEST: **APPROVAL** of a **VARIANCE** to the Zoning Ordinance standards to allow for a storage shed at an existing residence within a portion of the side and rear building setbacks where such structures are not allowed. The proposed encroachment would be 18.08 feet into the required 30-foot side yard setback and 20.39 feet into the required 60-foot rear yard setback.

NOTE: This request is for relief from the **side and rear yard** setback requirements.

Planning Director Bridge-Denzak presented the staff report, displaying photos and drawings via PowerPoint to explain the request:

- The subject property is located at 7002 East Languid Lane, Lot 626 of Carefree Plat 3B.
- The request includes the building of a shed approximately 300 square feet constructed within the side and rear yard setbacks, which was built without the required building permit.
- There are no legal nonconforming features at this property. It is a legal lot.
- Pursuant to Arizona Revised Statutes, there are no unique circumstances on this lot which support the subject request.
- The applicant has stated that the required neighborhood notification letter was sent and he received no feedback. Staff has received two letters of opposition.

Board questions and comments followed:

- Board Member Hitchon stated that from what she understands the shed was installed without a building permit. Ms. Bridge-Denzak answered, yes that is correct.
- Board Member Sperl asked if there had been a building permit issued would the shed have been approved in the location it is now. Ms. Bridge-Denzak stated that if a building permit had been issued the shed would not have been approved for the location it is in now.
- Chairman Mascha asked if the Board denies the request, would the structure need to be removed or relocated. Ms. Bridge-Denzak replied, yes, that is correct.
- Board Member Burgett asked about the fencing situation and if Planning Director Bridge-Denzak could offer clarification. Ms. Bridge-Denzak responded that the fence was not part of the variance request. There was a discussion with the applicant that explain the Town does not allow wood fencing, so regardless of the Board's decision tonight, the wood fencing would need to be removed.
- Commissioner Hitchon asked if the Town would be doing anything about the dried vegetation behind the shed that may be a fire a hazard due to the upcoming summer season. Ms. Bridge-Denzak stated that the issue of dried vegetation was addressed in the letter received by Town staff and the applicant is willing to remove that.
- Commissioner Burgett stated that it is somewhat surprising that a building permit was not applied for given that the owner is a builder.

Being no further comments or questions from the Board, Chairman Mascha opened the public hearing and the following speakers were heard:

- Mr. John Krisch, resident of Carefree and adjoining property owner, was opposed to the request. Mr. Krisch stated that he is within 500 ft. of the property and received notification from the Town regarding Mr. Peninno's request, but did not receive a notification from the applicant. Mr. Krisch stated that he is very angry that from his property he can see the large structure and the wood fencing that he was told was not allowed by the Town. He is also upset that Mr. Pennino installed the structure without Town approval considering he is in the construction trade.
- Mr. Peter Krisch, resident of Cave Creek and son of Mr. John Krisch, was opposed to the request. Mr. Krisch stated that this local builder has decided to take things into his own hands and not ask for the Town's permission. He is now begging for forgiveness for building an illegal structure on his property after the fact.

The applicant, Mr. Pennino, approached the podium to respond.

- Mr. Pennino apologized to Mr. John Krisch and stated he did not realize that he was angry. Mr. Pennino also stated that the structure began as a small shed, and as a builder, he thought it was a "small shed to protect some construction and outdoor equipment." If the structure would have been placed on any other part of the property it would have been visible from the street. The structure was built outside of the setbacks, but he did not believe it was a real structure that required a permit. It does not have a slab, it is just posts in the ground.

There were no further questions or comments from the public so Chairman Mascha closed the public hearing and called for a motion on case #18-11-V.

Board Member Hitchon **MOVED** to **DENY** case #18-11-V, a **REQUEST** for a **VARIANCE** to the Zoning Ordinance standards to allow for a storage shed at an existing residence within a portion of the side and rear building setbacks where such structures are not allowed.

MOTION SECONDED by Board Member Davee, motion **PASSED** unanimously.

ITEM #4 ANNOUNCEMENTS


There were no announcements.

ITEM #5 ADJOURNMENT


There being no additional business, Board Member Burgett **MOVED** to **ADJOURN**.

MOTION SECONDED by Board Member Sperl, **PASSED** unanimously. The meeting **ADJOURNED** at 6:14 p.m.

BOARD OF ADJUSTMENT


Al Mascha, Chairman

ATTEST:


Samantha Gesell, Planning Clerk