



**TOWN OF CAREFREE
MINUTES of the BOARD OF ADJUSTMENT**

WHEN: MONDAY, MAY 10, 2021
WHERE: ZOOM WEB*
TIME: 5:00 p.m.

Members of the Board of Adjustment participated by technological means or methods pursuant to A.R.S. §38-431(4).

The meeting was called to order at 5:09 p.m.

BOARD MEMBERS PRESENT VIA ZOOM:

Chairperson Tom Cross
Vice Chairperson Lyn Hitchon
Board Member Heather Burgett
Board Member Peter Burns
Board Member Dan Davee
Board Member Ralph Ferro

ABSENT:

Board Member Phil Corso

STAFF PRESENT VIA ZOOM:

Stacey Bridge-Denzak, Planning Director
Samantha Gesell, Planning Clerk

ITEM 1. **APPROVAL** of the **BOARD OF ADJUSTMENT** meeting minutes dated **MARCH 08, 2021.**

Board Member Ferro **MOVED** to **APPROVE** the minutes as presented. Board Member Burgett **SECONDED** the motion, **PASSED** unanimously.

ITEM 2. **CASE #:** 21-13-BOA

APPLICANT:	<u>APPLICANT</u> Victor E. Sidy, AIA LEED AP 2300 E. Utopia Rd. Phoenix, AZ 85024	<u>OWNER</u> Edward and Karen Carmines 6948 E. Stagecoach Pass Carefree, AZ 85377
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CASE LOCATION: 6948 E. Stagecoach Pass Road
Lot 670, Carefree Plat 3B (MCR: 98-37)

APN: 216-32-080

- ZONING:** Rural-70 (R-70), Single-Family Residential
70,000 square feet minimum lot size
- GENERAL PLAN:** The Carefree General Plan designates the property as Very Low Density Residential (VLDR)
- REQUEST:** **APPEAL** of the Zoning Administrator's interpretation of the Town of Carefree Zoning Ordinance, Section 11.02, *Nonconforming Buildings, Structures, and Uses* as it applies to the R-70 Zoning District development standards.

Planning Director Stacey Bridge-Denzak presented via PowerPoint. Ms. Bridge-Denzak is also the designated Zoning Administrator. Explaining, the appeal is to the Zoning Administrator's interpretation of the Town of Carefree Zoning Ordinance, Section 11.02, Nonconforming Buildings, Structures and Uses as it applies to the R-70 Zoning District development standards. Ms. Bridge-Denzak further explained that the appellant is looking to design a new structure, but utilize the following nonconforming standards:

1. Maintain existing building envelope
2. Maintain existing height/massing

Director Bridge-Denzak described the location of the existing home. Explaining that what makes the home non-conforming is its location, being that the home is built in the rear yard setbacks. Ms. Bridge-Denzak displayed a comparison of the existing footprint to the proposed footprint, essentially, a new home in the same location as the existing home. Emphasizing, the design of the existing home is not something you would see built in Carefree today based on the Town of Carefree's current zoning ordinance requirements. The home is three levels, the overall massing and height would not typically be permitted today in Carefree. Director Bridge-Denzak explained what the Zoning Ordinance is trying to defend is that if a home is lost due to an "act of god", you should have the right to rebuild it within substantial conformance to the way it was, if the intent is to rebuild a home with a new design, then the current Development Standards in the Zoning Ordinance apply.

Director Bridge-Denzak informed that all posting requirements have been met.

Applicant/Architect Victor Sidy presented on behalf of the homeowners Edward and Karen Carmines. Mr. Sidy described history of the house and provided reasons why for the current owners to rebuild the home in the original form does not make sense. Mr. Sidy further explained that when the house was originally permitted and built it was not with current development standards such as setbacks, massing etc., but it was what the neighbors were familiar with in terms of the location of the home, massing and not encroaching on the desert in any additional way. Mr. Sidy regarded this as a unique circumstance. Concluding, the intention is that the proposed design is no more of an imposition to neighbors than the previous home would be in terms of its mass and footprint and critically not anymore of an imposition to the desert.

Mr. Sidy explained this appeal is based on the interests of preserving the natural features of the property, understanding that the position of the house within the rear setback didn't appear to present any hardship on any of the surrounding neighbors and to transfer the original development rights of the property to the new construction. Applicant Mr. Sidy explained the homeowners are

committed to keeping the new home fairly in line with the original structure. Presenting via PowerPoint, Mr. Sidy outlined proposed exterior details of each level of the home, concluding that essentially, the proposed direction is that the massing, footprint and overall height should be grandfathered.

Board Member Burgett asked for clarification regarding precedent and asked if there is anything in the Town's historical records that would have said that we had interpreted the Ordinance differently as it relates to item #1 and #2.

1. Rebuild the structure as it originally was designed and constructed, including location, height, and architectural style and details; or,
2. Build a new structure that meets all current Town development standards in the style and manner preferred.

Ms. Bridge-Denzak responded to Board Member Burgett, explaining that, looking through historic appeal cases there has been nothing similar to this request.

Board Member Burgett posed the question, if the Town were to head down this path would we be setting some type of precedent that would be important to recognize in future recommendations and decisions? Director Bridge-Denzak believes that the Town potentially could be in that position. Applicant Victor Sidy added the key differentiator in this case is that they are not asking for more than what was originally permitted and built.

Board Member Burgett asked for background and clarification of the renovations, now because of the fire, why is the path different. Owner Edward Carmines replied, the home is mostly steel and block and interior walls could not be moved. There were a lot of things that they couldn't do in the renovation that they now have the opportunity to do if given the chance.

Mr. Sidy noted that the owners had some structural analysis done on the remains of the building. The slabs, retaining walls, pool and portions of the lower level are structurally in good condition. Further explaining, the fire destroyed the majority of the walls that were not retaining walls. Most of the roofs were damaged and structurally they were told that they could not rely on any of the roof framing. The only wall framing that they could rely on are the retaining walls against the hill.

Director Bridge-Denzak explained to the Board that her interpretation of the ordinance which is where options 1 and 2 in the Staff report came from and under the Board of Adjustment they have the authority to determine if there is a compromise or to waive certain development standards.

Board member Ferro asked for clarification regarding what the applicant intends to keep or not keep. Mr. Ferro expressed concern that the Board has no idea of what the proposed building will look like or what they are going to replace it with. Director Bridge-Denzak responded it is important to remember that we are looking at this in terms of development standards. If the Board is considering some form of waiver from those standards it would be worth understanding what the ultimate build out is. Ms. Bridge-Denzak added that the applicant understands the ordinance but would like to rebuild based on two caveats, one being location and the other being building mass and height.

Chairman Cross opened public comment.

Written public comment was received from:
Samuel J. Shoen - In favor of granting appeal

Peter Krisch - In favor of granting appeal
Ed Francese – Opposed to granting appeal

Vice Chairperson Hitchon moved to **UPHOLD** the Zoning Administrator's **DETERMINATION** with a **MODIFICATION** of **ALLOWING FOR THE EXISTING BUILDING PAD TO REMAIN BUT ALL OTHER DEVELOPMENT STANDARDS MUST APPLY. SECONDED** by Board Member FERRO. **PASSED** Unanimously.

ITEM 3. ANNOUNCEMENTS

There were no announcements.

ITEM 4. ADJOURNMENT

Vice Chairperson Hitchon moved to **ADJOURN. SECONDED** by Board Member Ferro. **PASSED** unanimously.

The meeting was adjourned at 6:34 pm.

BOARD OF ADJUSTMENT



Chairperson, Tom Cross



Planning Clerk, Samantha Gesell