

MINUTES OF THE GILA COUNTY BOARD OF ADJUSTMENTS

June 17, 2010/Approved August 5, 2010

608 E. Hwy 260, Payson, AZ.

1. Call to Order/Pledge of Allegiance

The Gila County Board of Adjustment meeting was called to order by Chairman Don Ascoli at 9:40 a.m. The Pledge of Allegiance was lead by Don Ascoli.

Board members present: Don Ascoli, Travis Williams, Ron Christensen, Jack Larimore; Lori Brown and Ron Christensen came in after meeting had started.

Staff present: Robert A. Gould, Community Development Director and Administrative Assistant Beverly Valenzuela.

2. Review and Approval of Agenda

Travis Williams motioned to approve and Jack Larimore seconded the motion; motion passed unanimously.

3. Review and Approval of Minutes – December 17, 2008

Motion to approve the minutes of December 17, 2008 was made by Jack Larimore with Travis Williams seconding the motion; motion passed unanimously.

4. Director/Board Communications

Director, Bob Gould had nothing to discuss with the Board at this time.

INFORMATION/DISCUSSION/ACTION ITEMS

5. **APPEAL OF AV-10-04 BY CULLEN BENNETT:** Appeal by Cullen Bennett of Planning and Zoning case AV-10-04 applied for by Jacob Sopeland for a "10' front yard setback because of the slopes to the Verde River and to locate my home as far from high water & flooding as possible." Property is zoned GU, General Unclassified and is Assessor's Tax Parcel Number 302-17-352C being parcel 3 of ROS 141 in Beaver Valley. Administrative Variance was issued due to staff finding that "there are sufficient grounds for relief from the topography and locating improvements away from potential high water conditions at the river side, no line of sight problems, no adverse impacts to adjoining property users and therefore grant a 10' administrative variance to encroach into the 20' front yard setback for the dwelling and future property improvements."

Robert Gould, Director stated that this parcel was created in 1985 through a land split survey map. GU zoning requires a minimum of 10,000 sq ft but this lot is approximately 9500 sq ft.; it was platted on the subdivision map as a tract and we have no choice but to look at it. There are several issues that will be dealt with during the building permit process but he wanted the commission to be aware of them: Wastewater-driveway goes right over the leach lines (the wastewater system was approved by the county in 1989). Flood Plain requires it be 10' from the embankment, will have to get a FPUP and will be required to put in a retaining wall. The house itself has to be at 10' back from the embankment and will have to do changes to the size and/or shape of the house. 37% of the parcel is within the floodway and that leaves about 6,000 sq ft that can be built on. He will be required to have engineering for his retaining wall.

Applicant Jacob Sopeland resides at 314 N. Mogollon Trail and stated that the actual variance came about because of discussions with the architect, engineer working eroding protection on the bank and Rudy Frost (consultant for the county) because parcel is a weird shaped lot. The house was designed based on the variance to maximize the size.

Don Ascoli opened the meeting for public comment.

Collin Bennett gave address as 46 W. Kristaway, Tempe and 158 Buckskin in Beaver Valley spoke on behalf of the Beaver Valley HOA, president. Mr. Bennett stated that he needed to make corrections to agenda (it was actually correction to the staff report dated May 8, 2010 from Robert Gould to the Commission) 1. The house did have room to move back 10 feet and still be on the top level before the drop off to the river area. Correction by Mr. Bennett: The property is flat, once the edge of the river embankment is overcome, regardless of where the house is located on top of that embankment, it will be in the same predicament as if the water rises over that embankment. 2. Septic is five feet away from the roadway edge. Correction by Mr. Bennett: This tank does not meet that requirement. Mr. Gould stated that the applicant does have the right to continue using the tank because the county approved it but they will not be able to drive over the leach lines. Mr. Bennett stated that the leach lines run outside of the property boundaries onto the roadway. Mr. Gould stated that staff had gone out there and located the leach lines and they say it is not off the property line. 6. Beaver Valley CC&R's require all homes to be at least 800 square feet. This does not leave enough room for parking and ingress/egress. Correction by Mr. Bennett: It is Beaver Valley CR&R's. Unit one is unique from the rest of Beaver Valley and has a 600 sq ft requirement for a house.

Beaver Valley Water Company was not notified of the meeting and owns the property next door.

For the record Bob Gould stated that we had received a letter from Barbara Crisp. Barbara Crisp was in attendance.

Mike Davoren stated that he resides at 963 Beaver Flat Road and he owns the property across the street along with the water company in Beaver Valley. He stated that it does not matter where the house sits, it will have water issues. He stated that Jake Garrett, Gila County Wastewater Manager, was out there and determined the entire septic system is within Mr. Davorens easement restrictions and water mains. Mr. Davoren shared pictures. He further stated that the septic system is 20" from the property line and only 17" Barbara Crisp Property.

Mr. Gould stated that if we deny all development rights to their property, then we have to buy the property. He further stated that if there's a way to legally develop that property, before county buys it, they will have it considered.

Barbara Crisp property owner to the north and the owner of the rest of tract G stated that there is a blind curve and if you consider only cars it is not a blind curve, but children cross there to go fishing and swimming. She stated that her main concerns were flooding on her property; the septic system and the blind curve for the community.

James Brown resides at 575 Beaver Flat Road and stated that he was concerned of contamination of the community water supply. He continued by suggesting that the county investigate before they endanger the health of the community. Mr. Brown is Chairman of the Domestic Water Improvement District that the county approved and stated that if they need to become involved he will take it up with the water district and will be back, he continued by stating that it's a concern on the part of the customers of Beaver Valley.

Mr. Gould stated that the house shown cannot be placed on this lot even if this variance is granted; a variance is a variance from zoning requirements and not a variance from state law regarding wastewater systems or floodplain issues.

Arthur Throckmorton resides at 1325 E. Fairfield, Mesa and property owner in Beaver Valley and he stated for the record that Mr. Brown has vacant property next to him and it doesn't have a septic system, but does have a permit. He stated that some time back there was fraud going on and it's coming to bite you. Their actions are why we are here today. Any variance on this lot is totally out of line.

Mr. Gould stated that he's concerned that they are considering a variance of 10' from the front yard setback to a house that can't be built.

After much discussion, Don Ascoli stated this situation is unusual. He asked if this variance is approved and it does not meet requirements for building permits then it stops right there? Mr. Gould replied yes.

It was stated by an unidentified person in the crowd that Beaver Valley Water Co. is never going to put water on that property and there was a letter sent to everyone involved.

Ms. Crisp stated that she was not going to tolerate the septic system and was going to make sure that it was moved 5 feet from her property line.

Travis Williams stated that he felt the variance should never have been issued.

Don Ascoli stated he felt that it should be tabled and clarify whether it is buildable or not.

Lori Brown stated that she would like to get answers from wastewater.

Robert Gould stated that any recourse has to go to Civil Court not the Board of Supervisors.

Ron Christensen asked what the legality of denying it and stated that by tabling it they were just dancing around the same issue and not addressing it and stated that it is going to have to be addressed at some time, the lot is very troublesome in terms of anything being built on it in the conventional normal way that lots go. If he wishes to go to court with it, what liability does it place on us with the information we have now?

Options discussed were: applicant has the option of shrinking the house, move leach lines if in roadway, clarify water requirements and setbacks.

Bob Gould stated that if tabled, he would make sure that Jake Garrett, Wastewater Manager, attended the meeting and provide testimony to answer questions. Bob Gould stated that if tabled he would supply pictures of the line of site, address the septic issues and water company issue.

Lori Brown moved to table this item, have questions answered and ask Jake Garrett to attend the next meeting. This will give Mr. Sopeland time to determine whether he can build or not. Jack Larimore seconded. Date of the meeting is scheduled for August 5th, 2010. Motion to table passed with a vote 3-2; Don Ascoli, Lori Brown and Jack Larimore voting in favor and Travis Williams and Ron Christensen voting against.

6. Meeting was adjourned at 11:00 a.m.