



BOARD OF ADJUSTMENT MEETING

**CITY OF BISBEE COUNCIL CHAMBERS LOCATED AT
915 S. TOVREAVILLE ROAD, BISBEE, AZ 85603
TUESDAY, JANUARY 14, 2025, 5:30PM**

**CALL TO ORDER: 5:30 PM MELISSA HARTMAN
ROLL CALL- BOARD MEMBERS/ STAFF**

| | PRESENT | ABSENT | EXCUSED |
|--|----------------|---------------|----------------|
| Tyler Bradberry | X | | |
| Cado Daily | X | | |
| Melissa Hartman, Chair | X | | |
| VACANT | --- | --- | --- |
| Fred Miller | X | | |
| VACANT | --- | --- | --- |
| Sharon Stetter | | | X |
| Ken Budge, Council Liaison | | | X |
| Emanuel Stuart, Staff Liaison | X | | |
| Xavier Rodriguez, Bldg. Inspector / Code Enforce. | X | | |

Agenda Item 1.

BOA24-04

Applicant: Bob Pilcher

Location: 19 Manzanita Street. Bisbee, AZ 85603

Requesting a Variance: Variance to construct a private residence that exceeds the allowed distance from the property line.

A. Opening of the Public Hearing

MS. HARTMAN OPENED THE PUBLIC HEARING

B. Presentation by the Applicant

Mr. Pilcher presented his application for the variance. He referenced the packet he had submitted, noting that it included details about the distances from the surrounding buildings.

He explained that the north end of the house was going to be a screened-in porch. He apologized for any confusion and clarified that the size of the screened-in porch would bring it closer to the property line or the street than the current requirements allowed. He stated they were requesting the variance—so the screened-in porch could be a little closer to the street than what the regulations permit.

C. Summarization by City Staff

The Planner Summarized by saying that the setback in this area and zone was 20 feet "In this case, the applicants were requesting a reduction in the front setback requirement. However, it had been noted that the property owner had previously split this parcel, which resulted in its current shape and size. Because of this, the condition was considered self-imposed. According to the guidelines for the Board of Adjustments, a variance could not be granted if the hardship was self-imposed by the property owner.

Additionally, the zoning code required that any variance granted must not result in a special privilege inconsistent with the limitations imposed on other properties in the area. Given the self-imposed nature of the hardship, staff recommended denying the variance for 19 Mana

Street, as it did not meet the criteria outlined in the zoning code for granting a variance."

D. Comments by persons in favor (Speaking time limit three (3) minutes per person.
MS. HARTMAN OPENED THE PUBLIC COMMENTS IN OPPOSITION. -NONE.

E. Comments by persons opposed (Speaking time limit three (3) minutes per person.
MS. HARTMAN OPENED THE PUBLIC COMMENTS IN FAVOR. -NONE.

F. Rebuttal by the Applicant

Mr. Pilcher stated that they knew all the neighbors in the area. Their parents had owned the house from which the property was split. Last year, the applicant sold the piece of property after splitting it. They explained that they had originally split the property because, as shown in the picture, they had built a barn on that piece of land when they first moved back in 1997. Wanting to keep the barn, they went through all the proper channels to have the property split.

The applicant noted that the street was a dead end with about 10 neighbors and was a very low-traffic area. None of the neighbors had expressed any concerns about the request. As far as the applicant knew, the neighbors had all seen the variance notice posted on the gate, and the applicant did not believe anyone in the area had an issue with the variance request.

Mr. Pilcher also stated that he believed it would have benefited the city to grant the variance. He explained that he currently lived in the county but, once the house was built, would be bringing additional revenue into the city. He already had city trash service set up, even though the property was on a septic system, and had been following the proper procedures for the project.

The applicant shared that when they hired their building designer, the designer was under the impression that it would not be a problem. The applicant concluded by requesting the variance so they could build the house and move from the county into the city.

G. Closure of the Public Hearing

MS. HARTMAN CLOSED THE PUBLIC HEARING

H. Discussion of the Variance Application among the Board Members

The Board discussed.

Ms. Daly asked if it was possible for Mr. Pilcher to shift the building back 12 feet.

Mr. Pilcher responded, stating that it was not possible because the space between the building and the barn needed a fire setback. He explained that the wall on the south end of the building would be part of the garage, and under the new fire code requirements, they needed 5 feet of space between the house, the garage, and the existing barn.

Ms. Daly acknowledged that the code required leaving space between the barn and the garage. She then asked a general question, wondering about the purpose of the front setback requirement. She expressed curiosity about why the setback was 20 feet rather than something less, even though she understood that it could not be changed in this instance.

The planner explained that the setback requirement had been adopted by the code and suggested that questions about its origin should be directed to the person who wrote the code. They speculated that the purpose of the setback was likely to create a sense of uniformity within the neighborhood. The planner acknowledged that they did not always personally agree with having such strict and uniform requirements, as every situation was different. However, they emphasized that the code had been adopted and must be adhered to.

Mr. Miller explained that, for the audience's understanding, if they had not received or read the packet, there was little that could be done in this case. He noted that the board could not change zoning laws, but they could approve or deny variances, which was what was being requested. He emphasized that many aspects were beyond their control. Mr. Miller pointed out that the reason the lot was narrow was because the applicant had sold a portion of the property, which could have been adjusted by moving the property line slightly. He referred to

this as a "self-imposed hardship."

Mr. Miller then asked how far the barn was from the back of the lot. He explained that he had visited the site, though he hadn't gone onto the property, and from the street, it appeared there was some space between the back of the barn and the property line, but he couldn't tell exactly how much.

Mr. Pilcher responded, stating that according to the survey, the distance from the back of the lot to the south side of the barn was around 36 feet.

Mr. Miller asked if it would be possible, albeit costly, to move the barn back, so the house would be in compliance with the zoning code.

Mr. Pilcher responded that it was a pole barn sitting on a pad, and moving it would be unrealistic, in his view, given the structure's nature.

Mr. Miller explained that it would be difficult to vote for the variance due to the setback requirements in the zoning code. He noted that, as much as he would like to assist, the board could not change those codes. In his opinion, the variance request was benign, but it still didn't meet the code.

Mr. Pilcher acknowledged that he hadn't known about the issue when they began designing the house.

Mr. Miller expressed that he hoped the building designer would have reviewed the code thoroughly.

Mr. Pilcher clarified that the designer did indeed notice the issue and brought it up, as he had been the one who found the problem. He further explained that the variance was specifically for a screened-in porch.

When asked about the size of the porch, Mr. Pilcher provided the dimensions, stating the inside dimensions of the porch were 11 feet 4 and a quarter inches wide and 18 feet 6 and three-quarter inches deep.

Mr. Miller pointed out that, if the porch were not part of the building's footprint, the house would be within the zoning code requirements.

Mr. Pilcher agreed but explained that, given the zoning code and the rules they had to follow, the situation was challenging. He noted that the hardship was self-imposed.

He showed an artist's rendering of the house, explaining that the north side of the house was 20 feet wide, and he wanted to ensure there was enough space to access the east side of the barn.

Mr. Bradberry asked about the porch design, wondering if it could be shortened to meet the setback requirements. He noted that the zoning code required a 20-foot setback because the lot was over 10,000 square feet. He clarified that the applicant initially asked for an 8-foot variance, but the current situation had resulted in a 12-foot setback.

Mr. Pilcher acknowledged the discrepancy, explaining that they initially thought the setback was 15 feet.

Mr. Bradberry agreed that the situation was complicated but mentioned that, given the circumstances, going to an 8-foot setback made sense, even though it was pushing the limits.

Mr. Pilcher expressed understanding, acknowledging that if that was the code, they had to follow it.

Mr. Rodriguez noted that, after visiting the site, he observed several properties in the area with closer setbacks and that it appeared feasible to move the house closer to the street.

Ms. Hartman asked if there was any way to modify the house design to meet the code. He emphasized that the board wanted to approve the house but needed to adhere to the zoning laws.

Mr. Pilcher explained that the garage was already small, and the house design had a one-bedroom layout with a small bedroom, laundry room, and bathroom stacked together.

Ms. Hartman asked if, in the event the variance was not granted, Mr. Pilcher had an alternative plan for the site.

Mr. Pilcher replied that they would just forgo the screened-in porch.

Ms. Daly suggested that there appeared to be space on the west side to adjust the house design. She inquired if the house could be made wider in that area.

Mr. Pilcher responded that the west side was constrained due to the county's requirement for an alternative septic leach field, which was located near the fence. He explained that the setback restrictions from the county also applied there.

Ms. Daly acknowledged the county's restrictions.

Mr. Bradberry said it was too bad that the city had not yet extended sewer services to that area.

Mr. Pilcher agreed, stating that the city had offered sewer services to residents, but most had already established septic systems, and there had been no problems. He added that residents did not want to pay additional fees for city sewer services when their septic systems were functioning well.

- I. Call for Motion and Decision by the Board
Ms. Hartman called for a motion.

MOTION: MR. Miller moved that the variance for 19 Manzanita Street be denied.

SECOND: MS. DALY

ROLL CALL VOTE

AYES: Hartman, Daly, Bradberry, Miller

NAYS: NONE

MOTION PASSED UNANIMOUSLY.

Agenda Item 2.

BOA24-04

Applicant: Shawn Stoeckel

Location: 215 Arizona Street. Bisbee, AZ 85603

Requesting a Variance: Variance for Lot Split of an existing lot under the minimum lot area allowed by the City Zoning Code.

- A. Opening of the Public Hearing
MS. HARTMAN OPENED THE PUBLIC HEARING
- B. Presentation by the Applicant
Mr. Stoeckel presented his application for the variance and explained that while the lot was under 6,000 square feet, it was still a decent size and larger than many of the surrounding lots.

C. Summarization by City Staff

The planner summarized the city's staff's perspective on the request. They explained that after reviewing the variance request and the proposed lot split, it seemed to be driven by what appeared to be a self-imposed hardship. There was nothing unique or physical about the property that would prevent it from being subdivided into two parcels of at least 6,000 square feet. The existing parcel size was 13,939 square feet, which was consistent with other commercial properties in the C1 zoning district.

The proposed subdivision would create a non-conforming parcel that did not align with the general standards for lot size and frontage in the district. Approving this variance would result in a smaller commercial parcel, potentially setting a precedent for future requests to reduce lot sizes beyond what zoning regulations allowed. There were no special circumstances related to the size, shape, topography, or location of the parcel.

The planner emphasized that approving the variance would grant special privileges, as other properties in the district were expected to comply with the existing lot size and frontage requirements. Therefore, the recommendation was to deny the variance request for the lot split, as it did not meet the criteria outlined in the zoning code for granting variances, and approving it would result in a special privilege inconsistent with the zoning limitations.

D. Comments by persons in favor (Speaking time limit three (3) minutes per person.

MS. HARTMAN OPENED THE PUBLIC COMMENTS IN FAVOR. There were letters from several neighbors. One from Heather Reddon and Chris Dangerfield stating that they had zero problems with the lot split.

Another letter from Edward Holly which said that Mr. Stoeckel takes superb care of his property and it would have a positive impact on the neighborhood. A third letter from Max E. Schoenhals stated that he was in favor of the project as Mr. Stoeckel has been taken care of and has a positive effect on the neighborhood.

E. Comments by persons opposed (Speaking time limit three (3) minutes per person.

MS. HARTMAN OPENED THE PUBLIC COMMENTS IN OPPOSITION.
-NONE.

F. Rebuttal by the Applicant

Mr. Stoeckel said that he knew the requirement was 6,000 square feet, but it was still a nice-sized lot. It was located behind the gym, right on Powell Street, and had 70 feet of frontage on Pal with 70 feet of depth on one side and 67 feet on the other. He mentioned that it was a good-sized lot, and he and his wife were considering putting a small house back there for a long-term rental. The first step was to get approval.

G. Closure of the Public Hearing

MS HARTMAN CLOSED THE PUBLIC HEARING

H. Discussion of the Variance Application among the Board Members

THE BOARD DISCUSSED:

Ms. Hartman said that she had taken a close look at the situation and acknowledged that it was indeed a large lot. She suggested that they delay a vote that evening and that Mr. Stoeckel return to the city to explore if it was possible to reconfigure the lot and avoid needing a variance.

Mr. Stoeckel responded that he had already looked into that option. The only way to reconfigure it would be to take part of the gym, which was located at the front, and extend that area toward the street. He had plans for that portion, which would require reducing the size of the gym.

Mr. Miller shared that he, too, was familiar with the property. He noted that the lot was ample enough for a small house. While he understood the limitations of zoning and what could and couldn't be done, he argued that similar properties in Bisbee had been granted the privilege to add a second structure. He emphasized the need for more long-term housing in Bisbee and mentioned that the lot was perfect for an infill project like a small two-bedroom home. He recommended approving the request.

Ms. Daly asked if the minimum size for a residential lot was 6,000 square feet, which was confirmed. She pointed out that even though the property might be used for residential purposes, it still had to comply with the zoning regulations, which required a 6,000 square-foot lot. She agreed with Mr. Bradberry about encouraging more housing, but she was concerned about the restrictions the board faced in upholding zoning regulations. She noted that since this was a self-imposed request, the board might not have the authority to approve it.

Mr. Bradberry asked if it was still possible to build a house without subdividing the lot. Mr. Rodriguez confirmed that it was, and that it could be done under C1 zoning with a maximum lot coverage of 40%. Mr. Bradberry was satisfied with the clarification and asked if a separate address could be assigned to the new home. Mr. Rodriguez confirmed that it was possible.

Ms. Hartman then addressed Mr. Stoeckel, asking if he had explored other options as suggested earlier. He responded that he had not, and he admitted that he preferred to proceed with the lot split as he envisioned. He wanted to keep the gym in the front and place a house in the back for long-term rental.

Ms. Hartman reiterated her position, encouraging Mr. Stoeckel to revisit the idea of adding an accessory dwelling unit (ADU) on the lot without requesting a variance. She believed there was enough space for such a unit and suggested that he go back to the city to explore this possibility.

Mr. Stoeckel clarified that if the lot were 6,000 square feet, he wouldn't need a variance. He also confirmed that the lot was rectangular in shape.

Mr. Bradberry explained that Powell Street angled slightly, which affected the lot's square footage. With the current proposal, the lot was only 1,275 square feet

short of the required size. Ms. Hartman expressed concern that sending Mr. Stoeckel back to the city might not yield a solution, but she thought it was worth exploring. Mr. Miller agreed, but he emphasized that without the split, the lot wouldn't meet zoning requirements.

Mr. Stoeckel stated that he would return to his original plan, which would give each lot 6,000 square feet.

- I. Call for Motion and Decision by the Board
MS. HARTMAN CALLED FOR A MOTION

MOTION: Ms. Daly moved to deny the request for the variance for the lot split at 215 Arizona Street.

SECOND: Mr. Bradberry

ROLL CALL VOTE

AYES: Hartman, Daly, Bradberry

NAYS: Miller

MOTION PASSED 3/1

ADJOURNMENT: 6:15 PM