

Board of Adjustment Meeting
Zoom Meeting Platform
Thursday, May 6, 2021 at 5:30PM
City of Bisbee, 76 Erie Street, Bisbee, AZ 85603
MINUTES

Call to Order: 5:35PM

Roll Call - Board Members

	Present	Absent	Excused
Melissa Hartman, Vice Chair	-	-	X
Dennis Nelson, Chair	X		
Michael Normand (Left before vote on Item 1)	X		
Thomas Patterson	X		
Mel Sowid	X		
Anthony Underwood	X		
Peter Von Gundlach	-	-	X
Ken Budge, Council Liaison to the Board	X		
Nina Williams, Staff Liaison to the Board	X		
Joe Ward, Bldg. Inspector	X		
Joe Estes, City Attorney	X		

Mr. Nelson explained how the Board of Adjustment Meeting would be conducted.

Agenda Item 1.

100 Quality Hill Road, St. Patrick's Church, Bisbee, AZ 85603

Appeal by Cynthia Conroy, of the decision of the Bisbee Design Review Board on March 3, 2021 denying DRB Application 20-97 submitted in connection to Windscreens installed on ball court fence at St. Patrick's Church.

A. Call of the Application.

Mr. Nelson, Chair of the Board of Adjustment called the application to be discussed.

B. Summarization by City Planning staff.

Mr. Ward stated that this was an appeal of the decision that was made by the Design Review Board to decline approving the windscreens that were being used at the pickleball courts at St. Patrick's Church.

C. Presentation by the Applicant

Ms. Flagler, Attorney for Bisbee Vogue Inc. was sworn in to speak by Dennis Nelson, Chair of the Board of Adjustment.

Ms. Flagler, Attorney for Bisbee Vogue Inc. stated they were appealing application 20-97 which involved windscreens at St. Patrick's Church. These windscreens were installed on a twelve (12) foot high preexisting chain link fence which surrounds the church's ball court and playground. The windscreens were six (6) feet high. She explained the background on the windscreens. Bisbee Vogue Inc. had applied for retroactive permission; they question if this was even in the purview of the Design Review Board and city permitting. She noted and discussed how the materials were laid out for the appeal to the Board. Ms. Flagler spoke regarding the law and the Design Review Board Guidelines. She pointed out that these windscreens allow for the use of the ball court to be used as the ball court. They had argued in their material that the Design Review Boards denial of application 20-97 was legally unsupportable. The Zoning Codes allowed for reasonable use and encourage orderly development. There was no mention of windscreens much less prohibition of them. Ms. Flagler stated that windscreens were already permitted in the historic district, the City itself maintains windscreens around the city pool and you cannot have an ordinance selectively imposed against one party and not the other. She thought that the best course of action would be to reverse the Design Review Board decision.

The Board discussed the presentation by the applicant.

Ms. Flagler welcomed the Board's comments, discussion and questions regarding the windscreens.

D. Comments by persons in favor

Ms. Linda Santellanes, was sworn in to speak by Dennis Nelson, Chair of the Board of Adjustment.

Ms. Linda Santellanes spoke in favor of the windscreens.

E. Comments by persons opposed. City Staff may respond to the substance of the application at this time.

Mr. Ben Lepley, member of the Design Review Board was sworn in to speak by Dennis Nelson, Chair of the Board of Adjustment.

Mr. Ben Lepley, member of the Design Review Board spoke in opposition of the windscreens.

Mr. Shawn Young, Chair of the Design Review Board was sworn in to speak by Dennis Nelson, Chair of the Board of Adjustment.

Mr. Young, Chair of the Design Review Board spoke in opposition of the windscreens.

Mr. Andrew Laws was sworn in to speak by Dennis Nelson, Chair of the Board of Adjustment.

Mr. Laws spoke in opposition of the windscreens.

F. Rebuttal by the Applicant

Ms. Flagler rebutted what had been said in opposition and answered questions regarding the windscreens.

G. Closure of the comments from the public

H. Discussion of the Appeal Application among the Board members.

Throughout the public hearing the Board discussed, had questions and comments.

Ms. Flagler, City Staff and City Attorney welcomed the Board's discussion, comments and answered questions.

I. Call for motion and decision by the Board.

MOTION: Mr. Sowid moved to proceed, overrule the objection of the Design Review Board (wants to reverse the decision of the Design Review Board and by doing that approving the application).

SECOND: Mr. Nelson

MOTION PASSED: UNANIMOUSLY (4)

Agenda Item 2.

201 Tombstone Canyon, Bisbee Vogue Inc., Bisbee, AZ 85603

Appeal by Cynthia Conroy, of the decision of the Bisbee Design Review Board on March 3, 2021 denying DRB Application 20-96 submitted in connection to the retroactive approval for the continuation of a railing installed in front of building.

A. Call of the Application.

Mr. Nelson, Chair of the Board of Adjustment called the application to be discussed.

B. Summarization by City Planning staff.

Mr. Ward stated that the applicant was requesting retroactive approval to install an iron railing between the property at 201 Tombstone Canyon.

C. Presentation by the Applicant

Ms. Flagler, Attorney for Bisbee Vogue Inc. was sworn in to speak by Dennis Nelson, Chair of the Board of Adjustment.

Ms. Flagler, Attorney for Bisbee Vogue Inc. stated that this appeal comes from the Design Review Board decision 20-96, concerning the railings in front of the building being used by Bisbee Vogue for its offices and their bed & breakfast. It was immediately adjacent to the High Desert Market on Tombstone Canyon. The railing was installed in front of the building on Bisbee Vogue property to keep people from stepping off the sidewalk edge (4-5" drop) and to keep the vehicles from going so far forward that it intrudes onto the walkway in front of the building. She spoke regarding the material that was given to the Board to make their decision. She explained the denials of the application from the Design Review Board. She stated that the request from the Board of Adjustment was to grant the application.

D. Comments by persons in favor

Mr. Shawn Young, Chair of the Design Review Board was sworn in to speak by Dennis Nelson, Chair of the Board of Adjustment.

Mr. Young, Chair of the Design Review Board spoke in favor of the railing.

Mr. Ben Lepley, member of the Design Review Board was sworn in to speak by Dennis Nelson, Chair of the Board of Adjustment.

Mr. Lepley, member of the Design Review Board spoke in favor of the railing.

E. Comments by persons opposed. City Staff may respond to the substance of the application at this time.

Mr. Andrew Laws was sworn in to speak by Dennis Nelson, Chair of the Board of Adjustment.

Mr. Laws spoke in opposition of the railing.

Ms. Foxe was sworn in to speak by Dennis Nelson, Chair of the Board of Adjustment.

Ms. Foxe spoke in opposition of the railing.

F. Rebuttal by the Applicant

Ms. Flagler did not have anything to add.

G. Closure of the comments from the public

H. Discussion of the Appeal Application among the Board members.

Throughout the public hearing the Board discussed, had questions and comments.

I. Call for motion and decision by the Board.

MOTION: Mr. Patterson moved to reverse the Design Review Board decision to deny the railing and approve the applicants request.

SECOND: Mr. Sowid

MOTION PASSED: UNANIMOUSLY (4)

Mr. Nelson moved to adjourn.

Adjournment: 7:18PM