



Board of Adjustment

August 30, 2023, at
1:30pm
Zoom Meeting

Legal Action Report

1. **CALL TO ORDER/ROLL CALL**

A quorum was established and the meeting started at 1:35 pm.

Members present: Michael Marks, Bruce Dawson, Jesse Lugo, Miranda Schubert, Erma Duran, and Bonnie Poulos

2. **C10-23-04 AGAVE SUN LLC NEW MULTIFAMILY DEVELOPMENT / 4441-4459 EAST BELLEVUE STREET / R-2**

The appellant, Lois Pawlak, is appealing the Planning and Development Services Director's decision to approve Design Development Option (DDO) Case DDO-23-08. The appellant is requesting a reversal of the Planning and Development Services Director's decision to approve DDO-23-08 which is a DDO request by the property owners to allow the following modifications:

- 1) DDO approval to allow the front street perimeter yard setback to be reduced from (31'-3") to (13'-0"), measured from the buildings to the south lot line;
- 2) DDO approval to allow the side perimeter yard setback to be reduced from (14'-9") to (5'-1"), measured from the buildings to the east lot line;
- 3) DDO approval to allow the side perimeter yard setback to be reduced from (14'-9") to (5'-1"), measured from the buildings to the west lot line;
- 4) DDO approval to allow the side perimeter yard setback to be reduced from (10'-0") to (1'-6"), measured from the buildings to the east lot line; and
- 5) DDO approval to allow the side perimeter yard setback to be reduced from (10'-0") to (1'-6"), measured from the buildings to the west lot line, all as shown on the submitted plans.

Motion by Mr. Dawson, duly seconded by Ms. Poulos, to uphold DDO request #1 and reverse DDO request #2-5 in agreement with DRB finding that 3.11.1. D.1.f. and g were not met. The motion passed by a voice vote of 6 - 0.

3. **C10-23-06 POVERELLO HOUSE OF TUCSON / 267 EAST BLACKLIDGE DRIVE / R-2**

The appellant, Laurie Clark, is appealing the Zoning Administrator's Determination (TZ-CMP-0223-00063), issued April 21, 2023, relating to the land use classification of the Poverello House as a "Home Occupation: Adult Day Care" use. Pursuant to the authority granted to the Zoning Administrator by Tucson *Unified Development Code (UDC)* Section 11.3.1.B, when a proposed use does not "conform to the wording of any Land Use Class description, the Zoning Administrator shall determine the most appropriate Land Use Class for that use." The appellant contends that the Poverello House fails to provide Adult Day Care services that can be licensed by the Arizona Department of Health Services and that the use cannot be classified as a Home Occupation as it involves a non-profit business conducting its operations

within a residential house. The appellant is requesting reversal of the April 21, 2023, Zoning Administrator's Determination.

Motion by Mr. Dawson, duly seconded by Ms. Schubert, to uphold ZAD, based on finding authority granted to the ZA from UDC to determine most appropriate land use. The motion passed by a voice vote of 5 - 1.

4. C10-23-07 STEARS RESIDENCE NEW GARAGE / BART STEARS / 8499 EAST WOODLAND ROAD / SR

The applicant's property is an approximately 3.37-acre lot zoned SR "Suburban Ranch" and is developed with a single-family residence and three accessory structures. The applicant is proposing to construct a 2,700 square-foot detached accessory structure (garage/shop). Tucson *Unified Development Code (UDC)* sections applicable to the project include, but are not limited to, Section 4.7.4 and Table 4.8-1 which provide the criteria for residential development in the SR zone, and Section 6.6.3 which provides the development standards specific to accessory structures for residential uses. The applicant is requesting the following variances: 1) Allow the total gross floor area of all accessory structures (200 square feet or larger) to exceed 50% of the gross floor area of the principal structure; and 2) Allow the detached accessory structure (garage/shop) to be constructed with an increased height from 12'-00" to 23'-11" as measured from the design grade elevation to the middle between the eave and ridge of the roof, all as shown on the submitted plans.

Motion by Ms. Poulos, duly seconded by Mr. Dawson, to grant variances 1 and 2. The motion passed by a voice vote of 6 - 0.

5. Other Business Item: Request for continuance of case C10-21-09 TEP - Kino to DMP 138 kV Transmission Line Upgrade, which is an Appeal of a Zoning Administrator Determination pertaining to UDC Section 5.5.4.B.

Motion made by Mr. Dawson, duly seconded by Ms. Schubert, to continue case C10-21-09 to the next regularly scheduled hearing. The motion passed by a voice vote of 6 - 0.

6. HEARING ADJOURNMENT Hearing was adjourned at 4:23 pm.