

MINUTES
VARIANCE APPEAL – BOARD OF ADJUSTMENT
CITY COUNCIL OF THE CITY OF YUMA, ARIZONA
CITY COUNCIL CHAMBERS, YUMA CITY HALL
ONE CITY PLAZA, YUMA, ARIZONA
NOVEMBER 1, 2023
5:30 p.m.

Mayor Nicholls explained that certain individuals will leave the dais and City Council will transition to a quasi-judicial body sitting as the statutory Board of Adjustment to hear Variance Appeal/VAR-41582-2023 for property at 2475 S. 43rd Trail. **Mayor Nicholls** called for a motion to recess the regular City Council meeting.

Motion (Knight/Morris) To recess the City Council Meeting and reconvene as a quasi-judicial body sitting as a statutory Board of Adjustment to hear a Variance Appeal. Voice Vote: 6-0, Smith being absent.

A three minute break was given between the Council Meeting and Variance Appeal.

CALL TO ORDER

Chairman Nicholls called the Variance Appeal/VAR-41582-2023 to order at 6:52 p.m.

ROLL CALL

Boardmembers Present: Morales, Knight, Morris, Shoop, Shelton, and Chair Nicholls
Boardmembers Absent: Smith
Staff Representation: Board’s Independent Legal Counsel, Jon Paladini
Assistant City Attorney, John LeSueur
Other various department representatives
City Clerk, Lynda Bushong

Chairman Nicholls turned the dais over to Jon Paladini, Attorney with Pierce Coleman, who sat in as legal advisor to the Board of Adjustment during the appeal process.

Paladini presented the following:

- Variance Appeal VAR-41582-2023 was requested by Appellant
- The variance request is to reduce the required distance between Residential Care Facilities from 1,320 feet to approximately 65 feet in the Low Density Residential District
- Property is located at 2475 S. 43rd Trail, Yuma AZ
- Variance application was heard by the City’s Hearing Officer, Sonia Ramirez, Esquire, who denied the application based on the finding it did not meet all four of the necessary criteria.
- The applicant is Wilson Okwuobu on behalf of Legacy healthcare.

Paladini outlined the rules of the appeal by stating each side will be allowed 15 minutes to present. Mr. Okwuobu, the Appellant, has the burden in this matter and will present first. The City, the Appellee, will be granted the same time after the Appellant. **Paladini** noted that the Appellant may wish to reserve some of his 15 minutes to rebut the presentation of the Appellee, but reiterated that each side is only allowed 15 minutes. After the presentations are made, the Board may hold a discussion on the matter, ask questions of the Appellant and/or Appellee, or may vote to adjourn into Executive Session for legal advisement for the purpose of deciding whether to affirm or overturn the Hearing Officers decision. **Paladini** turned the dais

back to **Chairman Nicholls**.

Chairman Nicholls called for the Appellant to begin his presentation. No one moved towards the dais and **Chairman Nicholls** stated that since the Appellant is not present himself or has no representation, he will allow questions/discussion from the Board.

Discussion

- No changes have been presented since the initial hearing and there is nothing to identify a hardship on behalf of the Appellant. [**Morris**]
- The Appellant was provided written notice, which is included in the agenda packet, as well as notified by several staff members reiterating the date and time of tonight's meeting; Appellant verbally confirmed he would be in attendance. [**Shelton/LeSueur**]

NOTE: Because Appellant did not appear at the hearing and Appellant did not submit any material in support of the Appeal, the Appeal is submitted to the Board on the record without a presentation or argument from Appellee. [**Paladini**]

Motion (Morris/Shoop):

I find that one or more of the four necessary variance criteria were not present, and no other evidence has been provided to accommodate a variance of this magnitude. Therefore, I moved to affirm the hearing officers denial of the Variance VAR-41582-2023 for the property located at 2475. South 43rd Trail.

Roll Call vote: **affirmed (Hearing Officer's denial upheld)** 6-0, Smith being absent.

Mayor Nicholls reconvened the regular City Council Meeting at 7:01 p.m.

Lynda L. Bushong, City Clerk

APPROVED:

Douglas J. Nicholls, Mayor

APPROVED AS TO FORM:

Jon Paladini, Esq., Counsel for Board

Approved at the City Council Meeting of:

City Clerk: _____