



**MINUTES OF THE BOARD OF ADJUSTMENT HEARING
TOWN OF YOUNGTOWN, ARIZONA
12033 N. CLUBHOUSE SQUARE, COUNCIL CHAMBERS/TOWN CLUBHOUSE
MARCH 2, 2023 5:30 P.M.**

1. **Call to Order:** Board Chair LeVault called the meeting to order at 5:40 p.m.
2. **Roll Call:** Board Members present: Board Chair Michael LeVault, Board Vice Chair Chuck Vickers, Board Members Margaret Chittenden, Jim Starke, Karen Haney Duncan, Mike Francis, Board Member Hout was present telephonically.

Board Chair LeVault noted that a quorum is established for transacting business.

3. **Consent Agenda** – No item on consent.

Case Z2023-02: Variance Request. Applicant Jalil Talaie seeks a variance from the strict application of the Zoning Code for property located at 11100 W. Michigan Avenue, Youngtown, Arizona. 85363. The applicant seeks a variance from the requirements of **Title 17 Zoning, Chapter 17.36 C-2 Commercial District, Section 17.36.040 Fence and Free-Standing Wall Regulations.** Fence or free-standing walls shall not exceed six feet in height in side or rear yard. Fences may be solid, of any approved fencing material except barbed wire, but may have a barbed wire protector along top; protector must be straight in line with fence or slope in. Fences in front yards may not exceed two and one-half feet in height. The effect of the variance will be to increase the fence height requirement in the side and rear yard to eight (8) feet.

Staff Report

Applicant is requesting a variance from the Town of Youngtown Municipal Code Section Title 17, Zoning, Chapter 17.36 C-2 Commercial District, Section 17.36.040. Fence and Free-Standing Wall Regulations to allow to exceed to a height of eight (8) feet instead of the required six (6) feet high for the side and rear yard, and the required two and half (2 ½) feet in height in the front yard. The following permits were issues to this property.

Open	06/08/2022	C22-000015	Metal Fencing
Issued	06/09/2022	C22-000017	Electrical panel upgrade.
Open	01/13/2023	C23-000002	Metal building

The subject property is immediately adjacent to an arterial road – West Michigan Avenue and North 111th Drive. The subject property is in a commercial district near heavy foot traffic with unique visibility concerns.

1. There are special circumstances applicable to the property, including its size, shape, topography, location, or surroundings, whereby the strict application of the zoning ordinance will deprive such property of privileges enjoyed by other properties of the same classification in the same zoning district.

Yes, because the property is immediately adjacent to an arterial road that creates high traffic and security concerns. This unique visibility concern supports a higher fence height.

2. Such special circumstances were not created by the owner or applicant.

No, the applicant did not create this condition. The conditions are due to their lot and location.

3. The variance does not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and zone in which such property is located.

No, the variance does not constitute a grant of special privileges compared to other properties in the vicinity and zone.

4. The variance will not be materially detrimental to persons residing or working in the vicinity, to adjacent property, to the commercial district, or the public welfare in general.

No, there will not be a material detriment due to this variance.

The Parcel was posted with the Public Hearing Notice as required by the public hearing procedures.

The Planning and Zoning Hearing was held on February 21, 2023.

As of the writing of this staff report, no comments or issues have been raised regarding this variance request.

Staff does not expect any significant conflict with nearby commercial uses in the area.

Planning & Zoning Officer Discussion and/or Action Re: Recommendation to the Board of Adjustment to approve, deny or approve with conditions the variance request for Case Z2023-02.

Chairman Jacobs recommended approval of the request subject to the following conditions:

- This project shall comply with the stipulation(s) set forth by the Planning and Zoning Hearing Officer and the Board of Adjustment.
- Applicant must obtain and secure the required permits for construction.
- Applicant will have the project inspected to ensure compliance with local codes.
- Submit an engineer letter stating the eight (8) foot fence is received, and stamp of approval from the engineering firm.
- Gain and pay for permit within six (6) months.

A. Applicant Presentation

Applicant Jalil Talaie thanked the Board and would appreciate an approval for the increase of the fence to eight (8) feet for the safety of his business.

Mayor LeVault stated that Youngtown plans to do everything within our jurisdiction, to keep our residents and our business owners and their properties safe.

- B.** Board Chair LeVault opened the public hearing at 5:43 p.m. to take testimony from the public.
- C.** Board Chair LeVault closed the public hearing at 5:43 p.m. with no comments from the public.
- 4.** Attorney Michelle Stinson reviewed the process of granting a variance, including the reasons for and against approval.

Motion to approve the variance request based on the four findings due to special circumstances subject to the following conditions.

- This project shall comply with the stipulation(s) set forth by the Planning and Zoning Hearing Officer and the Board of Adjustment.
- Applicant must obtain and secure the required permits for construction.
- Applicant will have the project inspected to ensure compliance with local codes.
- Submit an engineer letter stating the eight (8) feet fence is received, and stamp of approval from the engineering firm.
- Gain and pay for permit within six (6) months.

Motion to approve – Board Member Starke stated the motion per the Town Attorney

Second – Board Member Haney Duncan

Motion passed 7-0 on a roll call vote with all members of the board in attendance voting (Ayes: Board Chair LeVault, Board Vice Chair Vickers, Board members Chittenden, Starke, Haney Duncan Francis)

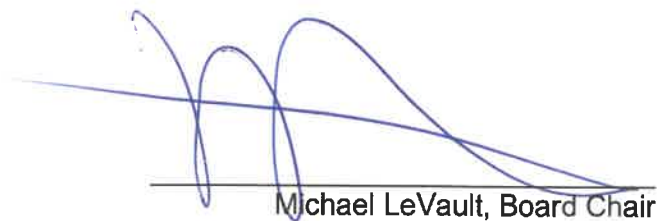
Board Member Hout telephonic voice vote was noted as a yes.

Adjournment.

Motion to adjourn– Board Member Chittenden

Second – Board Chair Vickers

Meeting adjourned at 5:45 p.m.



Michael LeVault, Board Chair

Attest:



Nicole Smart, Town Clerk