

**Correspondence Between
Staff and Applicant
Approval Letter**



Board of Adjustment Decision

Zoning Ordinance Variance

Variance Request

Case Numbers: 811-PA-2017 / 4-BA-2018
Project Name: CL Holdings 68th Place Care Home Variance
Location: 12012 N 68th Pl

Single-Family Residential Multi-Family Residential Commercial Industrial

Section of the Zoning Ordinance to be varied: Sections 5.202.A and 5.102.A.2.c

Scottsdale Ordinance Requires: Care Home location: A care home shall not be located within twelve hundred (1200) feet, measured from lot line to lot line, of another care home.

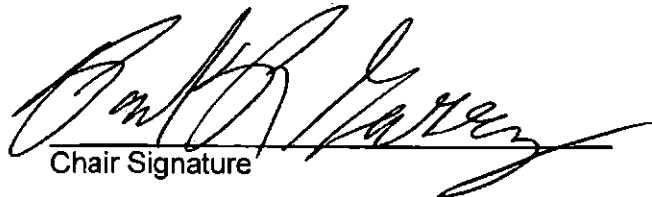
Applicant's Request: Request by owner for a variance to the City of Scottsdale Zoning Ordinance, Sections 5.202.A and 5.102.A.2.c pertaining to Care Home location/separation, for a property with Single-family Residential (R1-35) zoning located at 12012 N. 68th Place.

Amount of Variance: Seven hundred eighty five (785) feet

Board of Adjustment Decision

Hearing Date: *May 2, 2018*

- Approved Approved with Stipulation(s):
 Denied Continued to:
 Other:


Chair Signature

Moriarity, Ben

From: Heather Dukes <hdukes@lsblandlaw.com>
Sent: Tuesday, April 24, 2018 12:31 PM
To: Scott, Sherry
Cc: Carr, Brad; Moriarity, Ben; Padilla, Joe; Boomsma, Patricia
Subject: Case Nos. 1-BA-2018, 3-BA-2018 and 4-BA-2018 - Request for Procedural Decisions by the Board of Adjustment Chairman at the May 2, 2018 Hearing

Dear Sherry,

I have had a chance to review the Board of Adjustment Rules of Procedure and to discuss the presentation of our case with Larry Lazarus. I am sending this email as a follow-up to our phone conversation on Friday.

Under Section 102 of the BOA Rules of Procedure, the Chairman of the Board is authorized to decide all points of order or procedure. Section 204 provides the typical order of case presentations and states that the "Board has the right to establish time limits for all presentations." In the interest of the Board's time and the best use of its resources, the Applicant would request that the Board Chairman establish the following procedures and time limits for these 3 cases:

1. Request that Board Hear and Decide the Reasonable Accommodation Case Nos. 1-BA-2018 and 3-BA-2018 Simultaneously.

- a. The applicant in this matter filed 2 reasonable accommodation cases due to the unique timing of the group home/care home text amendment which took effect on January 5, 2018. Case No. 1-BA-2018 is an appeal of the ZA Decision denying a reasonable accommodation request which was submitted prior to the text amendment taking effect. Case No. 3-BA-2018 is a reasonable accommodation request submitted directly to the Board of Adjustment under the new reasonable accommodation process added to the Zoning Ordinance. Case No. 3-BA-2018 also requests an accommodation of the separation requirement between care homes, which was recently increased by the text amendment from 750 feet to 1,200 feet. The facts involved in the 2 reasonable accommodation cases are identical. We believe it would be in the best interest of the Board and the parties to hear and decide these 2 reasonable accommodation cases at the same time.
- b. **Proposed Time Allotted for Applicant's Presentation:** Applicant's counsel would respectfully request 25 minutes to make its presentation to the Board on these 2 combined cases with an additional 5 minutes for rebuttal (30 minutes total). We believe this time request would be consistent with the Board's prior procedural rulings allowing applicants 15 minutes on direct and 5 minutes of rebuttal (20 minutes total) involving cases appealed from a ZA Decision. In our case, we would be combining the 2 cases so as to prevent the presentation of duplicative facts to the Board, thus, reducing the overall time from 40 minutes for 2 separate cases to 30 minutes for 2 combined cases.
- c. **Proposed Time Allotted for Witness Presentations:** Applicant would request that the Board Chairman allow each of the following witnesses be given the opportunity to speak at the hearing for a time period of at least 3 minutes each. These witnesses will also be made available to answer questions by the Board, if necessary:
 - i. **Dan Lauber** (Expert witness on care home standards and reasonable accommodations) – We would also request that Mr. Lauber be permitted to appear telephonically at the Board hearing on May 2nd. Mr. Lauber lives in Illinois and is currently experiencing physical constraints arising from a back injury which would prevent him from flying to Arizona.
 - ii. **Charles Jackson** (Expert witness on care home differences and ADHS licenses)
 - iii. **Michelle Siwek** (Representative of property owner, CL Holdings)
- d. **Public Comment:** Depending on the number of people who appear at the May 2nd hearing to provide public comment, applicant would request that each individual be given 2 or 3 minutes to speak.

2. Request that Board Hear and Decide Variance Case No. 4-BA-2018 Separately.

- a. The Applicant would request that the Board hear and decide the variance application as a separate matter following the Board's decisions regarding the reasonable accommodation cases. Some of the facts and all of the criteria at issue in the variance proceeding are separate and apart from those at issue in the reasonable accommodation proceedings.
- b. **Proposed Time Allotted for Applicant's Presentation:** Applicant's counsel would respectfully request 15 minutes to make a presentation to the Board on the variance application with an additional 5 minutes for rebuttal (20 minutes total).
- c. **Proposed Time Allotted for Witness Presentations:** Applicant would request that the Board Chairman allow each of the following witnesses be given the opportunity to speak at the hearing for a time period of 3 minutes each. These witnesses will also be made available to answer questions by the Board, if necessary:
 - i. **Yvonne Corrigan-Carr** (Realtor who provided letter).
 - ii. **Sherry Rampy** (Broker who provided letter).
- d. **Public Comment:** Depending on the number of people who appear at the May 2nd hearing to provide public comment, applicant would request that each individual be given 2 or 3 minutes to speak.

If you have any questions or concerns, please do not hesitate to contact me. Thank you.

Sincerely,

Heather N. Dukes
Associate Attorney



LAW OFFICES OF
Lazarus, Silvyn & Bangs, P.C.
A PROFESSIONAL CORPORATION

Helping communities and developers grow responsibly.

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**Community & Economic Development Division
Planning and Development Services**

7447 East Indian School Road, Suite 105
Scottsdale, Arizona 85251

May 8, 2018

Larry S. Lazarus
Lazarus, Silvyn & Bangs, P.C.
420 W Roosevelt St
Phoenix, AZ 85003

Re: 811-PA-2017
3-BA-2018
CL Holdings 68th Place Care Home Disability Accommodation

Dear Larry S. Lazarus,

This letter is to advise you that the variance referenced above was denied at the May 2, 2018 Board of Adjustment meeting. Enclosed is a copy of the signed Board of Adjustment Decision – Zoning Ordinance Variance form for your records.

Please speak with your project coordinator about other potential options available to possibly remedy your situation.

In addition, per Section 1.807. of the Zoning Ordinance, "Any person aggrieved by a decision of the Board of Adjustment, or any taxpayer, city officer or department affected by a decision of the Board, may appeal the Board's decision to Superior Court at any time within thirty (30) days after the Board has rendered its decision." The special action is filed as a civil matter at the Court Clerk's office counters at the following locations:

Downtown Phoenix: 201 W. Jefferson
Southeast Campus (Mesa): 222 E. Javalina

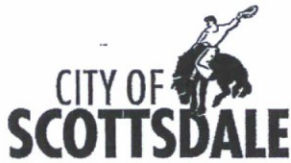
For more information on fees and where to file a special action, visit www.clerkofcourt.maricopa.gov or contact the Clerk of the Superior Court at (602) 37-CLERK.

NOTE: This information is intended only for your informational use and does not constitute legal advice. Those who wish to file a special action may wish to retain counsel.

If you have any questions, please feel free to call me at 480-312-2347

Sincerely,

Wayland Barton
Planning Specialist



Planning and Development Services Division

7447 East Indian School Road
Scottsdale, Arizona 85251

Date: 3.30.2018
Contact Name: LARRY LAZARUS
Firm Name: LARRY S. LAZARUS, FESQ, SILVEN + BONNS P.C.
Address: 420 W. ROOSEVELT ST. PHOENIX
City, State, Zip: PHOENIX, AZ 85003

RE: Application Accepted for Review.

811 - PA - 2017

Dear Ms. DUKE:

It has been determined that your Development Application for VARIANCE has been accepted for review.

Upon completion of the Staff's review of the application material, I will inform you in writing or electronically either: 1) the steps necessary to submit additional information or corrections; 2) the date that your Development Application will be scheduled for a public hearing or, 3) City Staff will issue a written or electronic determination pertaining to this application. If you have any questions, or need further assistance please contact me.

Sincerely,

Name: BEN MORIARITY
Title: PLANNER
Phone Number: (480) 312 - 2836
Email Address: bmoriarity @ScottsdaleAZ.gov