

DRAFT

MINUTES OF THE PUBLIC HEARING BUILDING ADVISORY BOARD TOWN OF CHINO VALLEY

**TUESDAY, MAY 30, 2023
6:00 P.M.**

**CHINO VALLEY COUNCIL CHAMBERS
202 N. STATE ROUTE 89, CHINO VALLEY, AZ**

Present: Chuck Merritt, Chair; Eric Ferketich, Board Member; Ken Mohn, Board Member; Sterling Skipper, Board Member

Absent: Charles Demeter, Board Member

Staff Laurie Lineberry, Development Services Director; Dan Trout, Chief Building Official; Will

Present: Dingee, Assistant Development Services Director; Mike Loiselle, Senior Building Inspector; Spencer Guest, IT Manager; Erin Deskins, Town Clerk

1) CALL TO ORDER

Chair Merritt called the meeting to order at 4:00 p.m. Board Member Skipper led the Pledge of Allegiance.

2) ROLL CALL

3) PUBLIC HEARINGS

- a) Discussion and possible action regarding Mark Bonaquista's Application of Appeal to the Building Advisory Board regarding the issuance of a second home permit at 550 South Road 1 East, Chino Valley.

Chair Merritt presented the following:

- The purpose of the Building Advisory Board was to give context on what the Board was allowed to do and not allowed to do.
- The Board had received its first appeal on a decision of a building official and a packet of information related to the appeal was provided to them.

- The hearing would proceed as follows:
 - Staff would present the item.
 - The appellant would present his appeal.
 - The Board would ask the appellant and staff questions about the appeal.
 - The Chair would close the hearing after those items were heard.
 - The Board would discuss and ask questions of staff and the appellant.
 - The Board would make a motion to either reverse or affirm in whole or in part or modify the order, requirement, or decision of the Building Official. The Board's decision would be deemed final.
- Chair Merritt asked if anyone on the Board had spoken with anyone about the item away from the meetings. None had.

Laurie Lineberry, Development Services Director, presented the following:

- This was an appeal on the decision made by the Building Official about whether a unit could go on a piece of property.
- The matter began in 2019 and there had been a lot of activity since then. The content in their packets related directly to the request to reverse a prior ruling of the Building Official to permit a Park Trailer on a piece of property as a second unit.
- The packet included attachments including information provided by the appellant, Park Trailer placard and ADOT Title, a list of names and their position held in the Town, definitions from Arizona statutes and Town Code, emails between the appellant and various staff and state offices.
- Staff included an analysis on the front page of the packet in place of a presentation to afford the appellant time to state his case without staff stating anything other than the facts of the case.

Mark Bonacquista, Appellant, presented the following:

- He had an engineering background and would be giving the Board facts and showing them the actual paperwork.
- Mr. Bonacquista stated that the issue came down to definitions and what was said and wasn't said.
- His adult daughter had been ill and they wanted to let her live on the property to help, but also give her her own space. He had called the Town and asked if they could put a second home on the property. He was told yes and was given the requirements of the building being over 400 square feet, but no larger than 1250 square feet. He had told them they were looking at a manufactured home and the Town said that would be fine as long as it had a plaque on it.
- He stated he was in compliance with the State and Town according to the manufactured home definition in Town Code.
- He stated he then got a citation stating that he had a recreational vehicle. Based on the Town's code he stated that his unit was not a recreational vehicle.
- Mr. Bonacquista referred to the first paragraph of the analysis provided by staff referring to the offer by the Town that Mr. Bonacquista declined. He stated the offer he was presented with did not include allowing the trailer to remain in place with no further action from the Town, which would have been impossible as the offer included a clause that he apply for a building permit for the installation of the home as a modular building according to its HUD issued decal. He did not have a HUD certificate because it was not a HUD certified type of building.
- Mr. Bonacquista stated that the building was being denied by the Town, saying that it was not 400 square feet or more. He requested that the Town come out to measure it but Dan Trout, Chief Building Official, would not come out to measure the trailer stating that it wasn't his job. However, it was listed in his job description.
- Mr. Bonacquista took the case to the Municipal Court, where it was also denied, so he took it

to the Superior Court. He provided a letter to the Board from the Superior Court Judge stating that it was a non-issue and sent it back to the Municipal Court.

- The trailer had a plaque that stated, “Department of Building & Fire Safety, Office of Manufactured Housing.”
- Mr. Bonacquista read the requirements of a recreation vehicle in A.R.S. § 41-001(33)(c).
- Mr. Bonaquista referenced a letter from Town Manager Cecilia Grittmann stating that although the Office of Manufactured Housing would permit the building, the structure would be permitted with building codes not adopted by the Town, risking fire or other structural issues.

Chair Merritt stated that Mr. Bonacquista’s time was up.

Dan Trout and the Board discussed the following:

- The Board requested clarification on the required width of the unit.
- The Board requested clarification on statements made by Mr. Trout that there were modifications made to the unit. Mr. Trout stated that the body looked like it had been altered. He had seen Park Trailers with attachments and without. Mr. Trout stated he had been to the property one time.
- The Board asked that if it had been a Park Trailer, by definition, it would have to be under 400 square feet. Mr. Trout stated there had been discrepancies regarding how the units should be measured. In one email, Ryan Paris, Program Manager with the Arizona Department of Housing, stated that it should be measured from the outside and the next that it should be measured from the inside. The court ruling told them to measure it from the outside, which contradicts the State. Mr. Trout stated that he was told to go off of what the Title says. If it says “PT” then it’s a Park Trailer, if it says “MH” then it’s a Manufactured Home. One board member stated that the title states PT in the upper right corner and asked what that stood for. Mr. Trout stated that according to the State it stood for Park Trailer.
- The Board noted that the main living space was 381 square feet and the additional “pop-outs” made it 404 square feet and asked if the “pop-outs” were additions. Mr. Trout stated that he would have no way of knowing. Mr. Trout stated that the Title stated measurements of 11x35, which would be approximately 380 square feet.
- The Board inquired if there were any circumstances under which the Town would allow the permitting of a Park Trailer. Mr. Trout stated that if the State did not permit them, the Town could not permit them.
- The Board referenced the packet stating that the Town was prohibited from issuing building permits on Park Trailers. Mr. Trout stated that through an Intergovernmental Agreement with the State the Town could issue permits for manufactured homes and do the inspections on them which are verified with HUD number or Titles. Manufactured homes had to follow the Manufactured Home Act with specific requirements.

The Board and Mr. Bonacquista discussed the following:

- The Board asked Mr. Bonaquista when the pop-outs were installed on the unit. Mr. Bonaquista stated that they were installed at the factory and the front of the trailer had a bowed window on the front that added additional feet. The Board inquired as to why it was called a Park Trailer if it came from the factory that way. Mr. Bonacquista stated that the Town’s definition of a manufactured home is over 400 square feet as measured from the outside which is what he did.
- The Board stated that the Title clearly stated that the unit was 11x35 and inquired if Mr. Bonaquista had anything that proved the popouts were installed at the factory. He stated that he did not and the manufacturer did not either. Mr. Bonacquista pointed to the fact that the unit had a siding color and striping that would be impossible to match unless it came from the factory.
- One Board Member found the 400 square feet to be immaterial due to the fact that the Title

clearly stated it was a Park Trailer. Mark Bonacquista stated that the Superior Court said it was “an error not mandating that the appellee (Town) measure and provide the result consistent with its ordinance.” Mr. Bonacquista stated that the definition does not state anything about HUD plaques or standards.

- Mr. Bonacquista stated that the unit did have a plaque from the State of Arizona approving it from the Manufactured Home Division. He stated he requested other documentation from the Town but was refused, citing Attorney/Client privilege.
- The Board inquired about when the unit was installed on the property in relation to applying for the building permit. Mr. Bonacquista stated that the unit was set up on the property and they were doing some work to the interior before they applied for the permit.
- The Board inquired about how the unit was currently set up in terms of electrical. Mr. Bonacquista stated that it was not hooked up and had been sitting vacant for three years, but it had a breaker panel and was ready for electrical and propane hookup.
- The Board inquired if a Manufactured Home had to have a HUD sticker. Mr. Bonacquista didn't know, but his unit had a sticker from the State of Arizona Manufactured Housing Division showing that it was built to specifications.
- One Board Member read a portion of the email from Mr. Paris at the Arizona Department of Housing, then asked if Mr. Bonacquista could provide the label or some paperwork that said the unit was manufactured under the housing act. Mr. Bonacquista stated that he could not.
- Discussion ensued regarding the various Town Codes on various home types.
- The Board and Mr. Bonacquista further discussed the particulars of his unit and whether they fall under the National Manufactured Housing Construction and Safety Standards Act of 1974 and Title VI of the Housing and Community Development Act of 1974 with the amendments.
- Mr. Bonacquista likened the situation to state law on marijuana going against Federal law on the matter. The Board stated those laws had no bearing on the matter at hand which were regarding building codes.
- The Board inquired as to where Mr. Bonacquista acquired the unit. Mr. Bonacquista stated he bought it used from a private owner.

Chair Merritt asked for a motion to close the Public Hearing.

MOVED by Board Member Eric Ferketich, seconded by Board Member Ken Mohn to close the Public Hearing.

AYE: Chair Chuck Merritt, Board Member Eric Ferketich, Board Member Ken Mohn,
Board Member Sterling Skipper

4 - 0 PASSED - Unanimously

The Board discussed the following:

- Chair Merritt summarized the facts of the case discussing the permit, the size and measurements of the unit, the particulars of the Intergovernmental Agreement between the Town and the Arizona Department of Housing and what it allowed the Town to do, and a brief timeline of the events in the matter.
- One Board Member made mention of the lack of a HUD sticker.
- Another Board Member stated that the unit may exceed 400 square feet. However, the origin of the “pop-outs” was unknown and the Board had no documents on the matter available to them at the time.
- The Board asked if a unit that was more than 400 square feet could be a manufactured house without being 12 feet wide. Mr. Trout stated that according to the State the answer was no. The

State requirements were a minimum of 12 feet wide and 40 feet long.

MOVED by Board Member Ken Mohn, seconded by Board Member Eric Ferketich to reaffirm the Building Official's order that this unit was not allowed.

AYE: Chair Chuck Merritt, Board Member Eric Ferketich, Board Member Ken Mohn,
Board Member Sterling Skipper

4 - 0 PASSED - Unanimously

4) ADJOURNMENT

MOVED by Board Member Ken Mohn, to adjourn the meeting at 4:57 p.m.

AYE: Chair Chuck Merritt, Board Member Eric Ferketich, Board Member Ken Mohn,
Board Member Sterling Skipper

4 - 0 PASSED - Unanimously

Submitted: June 22, 2023.

By: *Sara Burchill, Deputy Town Clerk*

Approved: MONTH DAY, 2023.