



# MARICOPA COUNTY, ARIZONA

## Board of Adjustment

### Minutes

### April 14, 2022

**CALL TO ORDER:** Chairman Loper called the meeting to order at 10:02 a.m.

**MEMBERS PRESENT:**

**In-person**  
Mr. Greg Loper  
Ms. Heather Personne

**GoToWebinar**  
Mr. Craig Cardon  
Ms. Fern Ward

**MEMBERS ABSENT:** Mr. Jeff Schwartz

**STAFF PRESENT:**

Mr. Tom Ellsworth, Planning & Development Director  
Mr. Darren Gérard, Planning Services Manager  
Ms. Rachel Applegate, Senior Planner  
Mr. Adam Cannon, Planner  
Mr. Jose Castañeda, Planner  
Mr. Joseph Mueller, Planner  
Ms. Rosalie Pinney, Recording Secretary

**COUNTY AGENCIES:**

Mr. Wayne Peck, County Attorney  
Mr. David Anderson, Business Engagement Manager, OET  
Ms. Alisha Bach, Technical Team  
Mr. Martin Camacho, Technical Team

**ANNOUNCEMENTS:** Chairman Loper made all standard announcements.

**AGENDA ITEMS:** BA2022008, BA2022010, BA2022007, BA2021056

**APPROVAL OF MINUTES:** March 17, 2022

Chairman Loper asked if there were any changes or comments to the minutes for March 17, none.

**BOARD ACTION:** Chairman Loper approved the March 17, 2022 minutes as written.

Mr. Gérard said item #1 - BA2022007 is being moved to the regular agenda due to opposition received.

### **CONSENT AGENDA**

**BA2022008**  
**Applicant:**

**Ticknor Property**  
Howard Li, Paramount Design & Consultants

**District 1**

**Location:** APN 303-66-234 @ 26409 S. Lakemont Dr. – Generally located approx. 250' NEC of Lakemont Dr. & Jardin Dr.

**Requests:** Variance to permit:  
1) Proposed minimum rear setback (east) of 10' where 25' is the minimum permitted per MCZO Article 606.4.3.; and,  
2) Proposed maximum lot coverage of 49% where 50% is the maximum permitted per MCZO Article 606.5.4.

**BA2022010 Wedra Property District 3**

**Applicant:** Paul Wedra

**Location:** APN 211-24-011C @223 E Paint Your Wagon Tr., in the Phoenix area

**Request:** Variance to permit:

- 1) Proposed hillside disturbance of 10,030 sq. ft. outside the lot's principal buildable envelope where hillside disturbance is prohibited.

Mr. Gérard presented the consent agenda.

Chairman Loper asked if anyone from the public wished to speak on the consent agenda. None.

**BOARD ACTION: Vice Chair Personne motioned to approve the consent agenda – BA2022008 with conditions 'a' – 'b', and BA2022010 with condition 'a'. Member Cardon second. Approved 4-0. Ayes: Cardon, Ward, Personne, Loper.**

**BA2022008 conditions;**

- a) Variance approval establishes a 10' (east) rear setback line for APN 303-66-234.
- b) Variance approval establishes a maximum lot coverage of 49.5% for APN 303-66-234.

**BA2022010 condition;**

- a) Variance approval allows for hillside disturbance up to 10,030 sq. ft. outside the lot's principal buildable envelope for APN 211-24-011C.

**REGULAR AGENDA**

**BA2022007 Hood Property District 2**

**Applicant:** Ben Haught – Red Rock Contractors

**Location:** APN 220-03-022M @ 1726 N. 106<sup>th</sup> Way – Generally located approx. 1,009' SW of the intersection of Jensen St. & Signal Butte Rd.

**Request:** Variance to permit:

- 1) Proposed minimum street-side setback (east) of 10' where 20' is the minimum permitted per MCZO Article 601.4.1.c.

Mr. Cannon presented BA2022007 and noted the proposed would allow an RV garage to be erected. Staff received an opposition letter from a neighboring property owner concerned with the visibility on 106<sup>th</sup> Way and the location of the front yard. Staff notes the front yard is the north property line because the front setback follows the shortest line of access on a property and

106<sup>th</sup> Way is the street side yard. There is already a permitted six-foot wall present on the site. The variance request for a 10-foot street side yard accommodates the previously permitted wall and the proposed RV garage. Staff finds it meets the statutory requirements for a variance and the applicant demonstrated a peculiar condition facing the property as two access easements run parallel to and within the northern eastern property boundary, and a wash runs in the middle of the property. The property has peculiar conditions and an undue physical hardship exists preventing the development of the property. The access easements and wash provide little room for an accessory structure. The location of a leach field on the western portion of the lot prevents development. The applicant demonstrated the peculiar conditions and physical hardship is not self-created and the wash was present prior to ownership of the property. The ordinance will be preserved because the variance pertains to allowing a structure that is common in residential areas and will not impact the residential character of the area.

Vice Chair Personne asked about the access easement. Mr. Cannon said they are unable to apply a one-foot Vehicular Non-Access Easement (VNAE) along the eastern property boundary that would allow for the garage to be built. On that eastern property boundary line, the easement runs through the other easement to the north. If they apply the one-foot VNAE it would restrict access to the easement that provides the frontage to their property.

Mr. Ben Haught said he is with Red Rock Contractors representing the Hood family. They are requesting a reduction of the 20-foot side setback to 10-feet. 106<sup>th</sup> Way is private drive and not a through street. It is located at the base of Userly Mountain with limited traffic. There are impacts with the existing wash where they are trying to build the RV garage. The reduction of the setback will allow them to minimize the impact to the wash and still build the RV garage. The septic system prevents them from locating it on the west side of the property. The letter of opposition came from the neighbor to the south where he has a six-foot fence along that property with some visual impact. The new building will have zero impact and it is on the end of a dead-end street with minimal traffic.

Chairman Loper asked if anyone else from the public wished to speak on this case. None.

**BOARD ACTION: Member Cardon motioned to approve BA2022007 with condition 'a'. Vice Chair Personne second. Approved 4-0. Ayes: Cardon, Ward, Personne, Loper.**

- a) Variance approval establishes a 10' (east) street-side setback line for APN 220-03-022M.

<b>BA2021056</b>	<b>Aloisio Property (Cont. from 2/17/22)</b>	<b>District 3</b>
<b>Applicant:</b>	Joseph Aloisio	
<b>Location:</b>	APN 211-23-196 @ 515 E. Blue Eagle Ln. – 7 <sup>th</sup> St. and Joy Ranch Rd.	
<b>Requests:</b>	Variance to permit:	
	1) Proposed rear (south) setback of 5' where 40' is the minimum permitted per MCZO Article 601.4.3 and Z85-225, and;	
	2) Proposed side (east) setback of 5' where 20' is the minimum permitted per MCZO Article 601.4.3 and Z85-225	

Mr. Mueller presented BA2021056 and noted the request would allow the applicant to seek a permit for a 1,200 square foot accessory structure in the south eastern corner of the lot. The applicant has failed to demonstrate there is a peculiar condition facing the property because

the lot is within a recorded and platted subdivision and the restrictions facing the parcel are from approved RUPD standards. The parcel does contain drainage easements that were recorded with the plat. The applicant has not demonstrated a peculiar condition or undue hardship exists because all the parcels within Desert Hills Estates subdivision face similar conditions, and no other parcel has been granted such a variance. This case was continued from the February 17, 2022 hearing to allow the applicant time for other alternatives, such as, relocating the RV garage or making it a smaller structure. The applicant wanted to keep the request unchanged.

Chairman Loper asked if this were just R1-35 or RU-43 and not the RUPD, then the accessory requirement would allow an accessory structure within three feet of side and rear property lines. Mr. Mueller said that is correct.

Member Cardon asked if the applicant could build in the drainage easement. Mr. Mueller said no. Mr. Gérard said the RUPD does restrict that area.

Member Ward asked how far away is lot 66 is from this lot or does it pertain to the situation. Mr. Gérard said there have been no other variances granted, and he believes there is a legal non-conforming on an existing lot.

Mr. Joseph Aloisio the applicant said he believes there is a peculiar condition because the drainage easement covers most of the west side of the lot, and it is unusable because of the flood potential. When it rains the water overflows in that area, and if he built the RV garage there the flood potential is very high. It also would be difficult to drive through the wash to the back-west corner and it's located seven feet from his existing garage. It connects to the neighbor's wash easement which would create more water to go into their property. He did speak to an engineer and they were told it would be very expensive to move the wash. The potential of flooding the neighbor's yard would be an issue, and they would have to remove their mature trees and shrubs, and concerns with erosion of the new building. Another option is to put it in the middle of his backyard which would significantly decrease the resale value of the property. To make the 90 degree turn with a 40-foot camper into the building would make it hard to navigate. Also placing it in the middle of the back yard would block the view from their rear patio. The variance request option has little to no impact on the property drainage and it would not touch the wash on the west side. The south eastern corner is untouched with only two small bushes in that corner. It will increase the property value, and the RV gate is already on the east side of the property and the driveway is already there. He has full neighbor support, and one neighbor said they would rather look at the RV building then his RV. This location will require the least amount of property modification and it will be located inside of their already fenced backyard. This the most logical location.

Vice Chair Personne thanked the applicant for coming back and presenting the different options.

Member Cardon said he believes there is a peculiar condition facing the property, and he asked the applicant if he received any opposition when talking with the neighbors. Mr. Aloisio said he did not receive any opposition. There are other RV buildings in the neighborhood and there are others in the area that want what they are requesting to build.

Chairman Loper asked if anyone else from the public wished to speak on this case. None.

Vice Chair Personne said after listening to the presentation she does agree the drainage is a peculiar condition, and she is in full support of this variance.

**BOARD ACTION: Vice Chair Personne motioned to approve BA2021056 with conditions 'a'-'b'. Member Cardon second. Approved 4-0. Ayes: Cardon, Ward, Personne, Loper.**

- a) Variance approval establishes a 5' south setback line for a 1,200 square foot accessory structure for APN 211-23-196.
- b) Variance approval establishes a 5' east setback line for a 1,200 square foot accessory structure for APN 211-23-196.

**Adjournment:** Chairman Loper adjourned the meeting of April 14, 2022 at 10:35 a.m.

Prepared by Rosalie Pinney  
Recording Secretary

April 14, 2022