



BOARD OF ADJUSTMENT
MARICOPA COUNTY, ARIZONA
 205 W. Jefferson Street, Phoenix, Arizona
 and by GoToWebinar

MINUTES
March 16, 2023

CALL TO ORDER: Chairman Loper called the meeting to order at 10:00 a.m.

MEMBERS PRESENT:

In-person
 Mr. Greg Loper, Chairman
 Mr. Jeff Schwartz

GoToWebinar
 Ms. Heather Personne, Vice Chair
 Mr. Craig Cardon
 Ms. Fern Ward

STAFF PRESENT:

Mr. Tom Ellsworth, Planning & Development Director
 Mr. Matt Holm, Planning Supervisor
 Mr. Joel Landis, Planner
 Mr. Andrew Lorentzen, Planner
 Mr. Nick Schlimm, Planner

COUNTY AGENCIES:

Mr. Wayne Peck, County Attorney
 Mr. Nik Decker, County Attorney
 Mr. David Anderson, Business Engagement Manager, OET
 Ms. Judy Green, Technical Team
 Mr. Martin Camacho, Technical Team

ANNOUNCEMENTS: Chairman Loper made all standard announcements.

AGENDA ITEMS: BA2023005, V202201327, BA2022062, BA2023007, BA2023002

APPROVAL OF MINUTES: February 16, 2023

Chairman Loper asked if there were any changes or comments to the minutes for February 16, none.

BOARD ACTION: Chairman Loper approved the February 16, 2023 minutes as written.

WITHDRAWN AGENDA

BA2023005	Pierce Property	District 3
Applicant:	Leodra Bowell, Phoenix Permit Services	
Location:	APN 169-13-023 @ 4332 E. Upper Ridge Way, Paradise Valley, 85253	
Request:	Variance to permit:	
	1) Existing hillside disturbance of 252 sq. ft. outside the proposed building envelope where prohibited per MCZO Article 1201.6.1.1	
Withdrawn:	Case is withdrawn as area requesting relief is within a previously disturbed hillside area, thus a variance is not necessary.	

V202201327 **Code Compliance Review** **District 3**
Respondent: Saving Paws Rescue of Arizona
Location: 1538 W. Irvine Road (211-50-019N)
Request: Appeal of the Hearing Officer’s Order of Judgment
Violation: Commercial business in a Rural/Residential area (exceeding Home Occupation standards)

Mr. Holm said case BA2023005 and V202201327 have been withdrawn. No action is required by the Board.

CONSENT AGENDA

BA2022062 **Reaser Property** **District 3**
Applicant: Jenny Vitale
Location: APN 203-37-007L @ 37607 N. 31st Ave in the North Phoenix Area
Request: Variance to permit:
 1) Proposed hillside disturbance of 8,939 sq. ft. outside the lot’s principal buildable envelope where prohibited per MCZO Article 1201.6.1.1 and;
 2) Proposal to locate the sewage disposal system outside of the principal building envelope where prohibited per MCZO Article 1201.6.1.2.

BA2023007 **Glimcher Property** **District 3**
Applicant: Stratton Andrews, BedBrock Architecture
Location: APN 169-13-032 @ 4201 E. Upper Ridge Wy. – E. Lincoln Dr & N. 40th St., in the Paradise Valley area
Request: Variance to permit:
 1) New hillside disturbance of 9,200 sq. ft. outside the lot’s principal building envelope where prohibited per MCZO Article 1201.6.1.1

Mr. Holm presented the consent agenda.

BOARD ACTION: Member Schwartz motioned to approve the consent agenda, BA2022062 with conditions ‘a’-‘b’, and BA2023007 with condition ‘a’. Member Cardon second. Approved 5-0. Ayes: Cardon, Schwartz, Ward, Personne, Loper.

BA2022062 conditions;
a) Variance approval establishes allowed hillside disturbance of 8,939 sq. ft. outside the principal building envelope for APN 203-37-007L.
b) Variance approval establishes allowance to locate sewage disposal systems outside of the buildable envelope in the hillside area for APN 203-37-007L.

BA2023007 condition;
a) Variance approval establishes an allowance for 9,200 sf of hillside disturbance not related to driveway or utility connection outside of the principal building envelope for APN 169-13-032.

REGULAR AGENDA

BA2023002 **Straight Living Trust** **District 3**
Applicant: Shannon Miller, Miller Fence & Barns

Location: APN 211-50-048S @ 38314 N. 15th Ave. – 19th Ave. & Joy Ranch Rd. in the Phoenix area
Request: Variance to permit:
1) Proposed front setback of 22' for a detached storage shed, where 40' is the minimum permitted per MCZO Article 503.4.1

Mr. Schlimm presented BA2023002 and noted the parcel is one acre with a single-family residence. The parcel is flat and features xeriscape landscaping, like neighboring properties, and is of a pentagonal, "home plate" shape. Access to the site is provided by way of a 20' easement, which ends in a cul-de-sac that intersects with the two east lot lines. The two east lot lines are effectively front lot lines with setbacks measuring 40 feet from each, per MCZO Article 503.4.1. The planned shed would be located 22 feet from one of these front lot lines, hence the variance request. There appears to be viable alternative locations where the shed could be built and still conform to zoning regulations. If the shed were built 60 feet due west of its planned location, it would meet the requirements for accessory structures without displacing existing vegetation. While this would place the shed partially within the rear yard setback, MCZO Article 1106.2 allows this, so long as it doesn't come within three feet of the rear lot line, and all accessory structures don't occupy more than 30% of the yard. Even with the two existing accessory structures factored in, the shed would meet these requirements. Alternatively, if the shed were built 25 feet further north and 35 feet further west, it would manage to avoid displacing any vegetation and avoid encroaching on any setbacks. Opposition has been received, arguing there is no hardship present on the lot to justify a variance to the zoning regulations. Staff finds the request fails to meet the statutory test for variance approval. The applicant has failed to demonstrate there is a peculiar condition facing the property because there is ample space on which building a small shed would be physically feasible without encroaching on the required front yard setback and without encroaching within three feet of either the rear or north side lot lines. The applicant has failed to demonstrate that strict application of the MCZO to the property has caused an undue physical hardship preventing further development. There are alternatives available, such as relocating the shed several feet west until it is completely outside the front yard. The applicant has failed to demonstrate the peculiar condition / physical hardship is not self-created in the line of title in that any gates, fencing, landscaping, and/or the two travel trailers currently stored on the property could be removed or relocated as necessary to accommodate a detached structure.

Chairman Loper asked if the applicant or applicant's representative is in attendance or online. No one from the audience came forward. Mr. Anderson said no one is online.

Chairman Loper asked staff if they were in contact with the applicant. Mr. Schlimm said yes he contacted the applicant who was representing the property owner, and he said he wouldn't be in attendance, but the property owners were to attend.

BOARD ACTION: Member Schwartz motioned to continue BA2023002 to April 13, 2023 hearing. Vice Chair Personne second. Ayes: Schwartz, Ward, Cardon, Personne, Loper.

Adjournment: Chairman Loper adjourned the meeting of March 16, 2023 at 10:12 a.m.

Prepared by Rosalie Pinney
Recording Secretary

March 16, 2023