



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

MINUTES
April 13, 2023

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

MEMBERS PRESENT:

In-person
 Mr. Greg Loper, Chairman
 Ms. Heather Personne, Vice Chair
 Mr. Jeff Schwartz

GoToWebinar
 Mr. Craig Cardon
 Ms. Fern Ward

STAFF PRESENT:

Mr. Tom Ellsworth, Planning & Development Director
 Mr. Darren Gérard, Planning Division Manager
 Mr. Matt Holm, Planning Supervisor
 Ms. Rachel Applegate, Senior Planner
 Mr. Daniel Johnson, Planner
 Mr. Joel Landis, Planner
 Mr. Andrew Lorentzen, Planner
 Mr. Nick Schlimm, Planner
 Ms. Rosalie Pinney, Recording Secretary

COUNTY AGENCIES:

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

ANNOUNCEMENTS: Chairman Loper made all standard announcements.

AGENDA ITEMS: BA2023006, BA2023015, V202100112, TU2023014, BA2023002, BA2023009, BA2023014

APPROVAL OF MINUTES: March 16, 2023

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

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

CONSENT AGENDA

BA2023006	Siddiqi Property	District 3
Applicant:	Ivan Shongov, Architekshon, Inc.	
Location:	APN 169-12-010B @ 7540 N. Red Ledge Dr. – 40 th St. & Lincoln Dr., in the Paradise Valley area	

- Requests:** Variance to permit:
- 1) Proposed side (east) setback of 0' where 30' is the minimum permitted per MCZO Article 503.4.2 and;
 - 2) Proposed terrace height of 30' above grade and distance of 0 feet from the side (east) lot line where 3' is the maximum height and 2' is the minimum distance from any lot line or setback line permitted per MCZO Article 1110.6.7 and;
 - 3) Proposed hillside disturbance of 5,165 sq. ft. outside the lot's principal buildable envelope where prohibited per MCZO Article 1201.6.1.1

BA2023015 Williams Property District 4
Applicant: Bill Williams
Location: APN 200-64-012A @ 15025 N. 71st Ave. -71st Ave. & Country Gables Dr., in the Peoria area
Requests: Variance to permit:

- 1) Lot area of 42,162 sq. ft where 43,560 sq. ft is the minimum required per MCZO Article 503.5.1. and;
- 2) Lot width of 129' where 145' is the minimum required per MCZO Article 503.5.2.

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

BOARD ACTION: Member Ward motioned to approve the consent agenda, BA203006 with conditions 'a'- 'c', and BA2023015 with conditions 'a'-'b'. Vice Chair Personne second. Approved 5-0. Ayes: Cardon, Schwartz, Ward, Personne, Loper.

- BA2023006 conditions;**
- a) Variance approval establishes a 0' east setback line for APN 169-12-010B.
 - b) Variance approval establishes an allowance for a terrace to extend to a maximum 30' above grade (including fencing and fall protection) and setback 0' from the east side lot line for APN 169-12-010B.
 - c) Variance approval establishes an allowance for 5,165 square feet of hillside disturbance not related to driveway or utility connection outside of the principal building envelope for APN 169-12-010B.

- BA2023015 conditions;**
- a) Variance approval establishes a 42,162 sq. ft lot area for APN 200-64-012A
 - b) Variance approval establishes a 129' lot width for APN 200-64-012A

CODE COMPLIANCE REVIEW

V202100112 Code Compliance Review District 5
Respondent: Shaun H. & Michele D. Holley
Location: 3509 N. 359th Avenue (506-40-155)
Request: Appeal of the Hearing Officer's Order of Judgment
Violation: Construction without permits/clearances and parking/storage of a non-accessory vehicle

Mr. Gérard presented V202100112 and noted the case was opened in January 2021 due to citizen complaints regarding parking and storage of a non-accessory vehicle greater than 10,000 lbs. in a rural/residential area, and construction of an accessory dwelling unit without permits/clearances. The respondent entered into a compliance agreement where they admitted responsibility for the violations and to bring the property into compliance. Terms of that agreement expired on October 25, 2021, therefore the case was scheduled before a hearing officer on January 25, 2023 and the property owner was found responsible for the violation. As of January 31, the respondent appealed for code enforcement review with counsel. The hearing officer made a finding of fact and reached conclusion pursuant to section 1502 of the county zoning ordinance. They Board may affirm the hearing officers order of judgment or remand it back to the hearing officer due to a finding of a procedural error. Staff reviewed the record, and the evidence supports the decision of the hearing officer and finds no administrative or procedural error, and recommends the Board affirm the hearing officers order of judgment.

Vice Chair Personne asked the relationship between this case and the following case. Mr. Gérard said it is the same site and property owners. The following case if approved will remedy a component of the zoning violations but not in entirety.

Chairman Loper asked the Board's purview is just the procedural portion of it and not the merits of the case itself. Mr. Gérard said yes.

Mr. Peter Furlow with Rose Law Group representing the respondent said they were not represented in the violation hearing. The whole case was decided on whether the property is considered Agricultural Exempt or not. The issuance of exemption is from Planning & Zoning not the Assessor, and they didn't receive a list to what was Ag Exempt or not. It was said all the pre-existing improvements on the site from September 2021 were Ag Exempt. No improvements or changes have been made to their property since applying for the Ag Exemption. During the violation hearing the county representative was asked to describe what portion of the property does not have an Ag Exemption. It was said, "from what I understand, this may not be 100% correct, I'm going to draw on here what was roughly shown to me by the Assessor's office and is a rough guess, I don't have the exact dimensions." The hearing officer asked the county representative, "how would it effect this case if this were Ag Exempt." He said, "if it's exempt, its exempt." Meaning the violations would go away. The Holley's didn't receive the violation hearing packet that was submitted into evidence until 5 minutes before the hearing. The county failed to send the required notice of the violation hearing decision until counsel had requested it or they would have missed their appeal deadline. They failed to provide the packet or the audio recording of the violation hearing to prepare for today's hearing until April 7. The hearing officer acknowledges that the Ag Exemption is an open question but did not grant continuance. They violated 1504.3.5, no person may be examined at a hearing except by the hearing officer, the defendant's attorney or designated representative, the zoning inspector or county attorney. The opposition was given 5 minutes to examine the county representative. Violated 1504.3.7 Right to Appeal, the hearing officer shall deliver to the defendant a written notice the right to appeal to the Board of Adjustment and wasn't provided until after the appeal time expired. Violated 1504.3.4 Continuance as he spoke to earlier, and 1504.3.8 Record on Appeal - a copy of the audiotape of the hearing wasn't received until April 7 and hasn't received a copy of the evidence. The entire decision was based off of a misstatement of the law and because of all the procedural errors this necessitates remand so we can have another hearing and answer questions to what they are being cited for of these violations.

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

Vice Chair Personne asked the counties position on what their counsel shared. Mr. Gérard said there is an agricultural use that has been confirmed by the department for a miniature horse farm on the property. The uses on the property are Ag Exempt and not necessarily dimensions. That could have confused staff

at the hearing. The uses may occupy certain dimensions, we do not consider the single-family residence exempt or the accessory dwelling unit to be exempt. Farm worker housing would be part of the agricultural use. We do not consider the semi-truck being used for a long-haul trucking business to be part of the agricultural use. He understands it has brought in hay for the horses, but also vendors bring in hay for the horses. The violation was the storage of the non-accessory truck and unpermitted construction. The property owner participated at the hearing online, the hearing officer found them responsible, and he sent the order to staff. Then staff sends out his order to the involved parties. A copy of the order and a copy of the right to appeal is presented. It's not based on the hearing date but the hearing officer's order. If sent by email we allow that email date and the 10 days will start. Obviously that was not an issue, the appeal has been processed and they are here today. The normal course of procedure is staff will present and may be represented by county counsel, and testimony will be given, and they could ask questions of the person giving testimony. Then the hearing officer turns it over to the defendant or respondent to give their testimony and staff or county counsel can ask questions. That is what occurred at the hearing. They weren't represented by counsel at the hearing but are represented today.

Member Schwartz asked if there were dimensions on the agricultural lines, would that change a decision or looked at differently by the hearing officer. Mr. Gérard said he can't speak to the hearing officer's decision making, he would think not because the agricultural use constantly changes especially with animals. There could be new fencing, new animal enclosures and it is a property that has housing. The area they set aside for pens and horse corrals could change. The entire property is subject to an agricultural exemption for the agricultural uses. The assessor assigns taxes based upon dimensions of the house and the rest would be taxed differently and is separate from zoning.

Member Schwartz asked if this moves forward with an approval, they will have the opportunity to go before a judge and talk about these issues and try and get remedy there. Mr. Peck said yes. The Board of Supervisors (BOS) by statute authorized appeals from hearing officers either to itself or to the Board of Adjustment (BOA). The Board of Supervisors have elected to give that privilege to the BOA but has limited the scope of your review to procedural errors that impact the decision made by the hearing officer. If this matter were to go to court, the statute provides that it is done pursuant to the administrative appeals act and the judge will review the record to determine whether or not there was sufficient evidence in the record to substantiate a decision the hearing officer made. The applicant admitted to the violation when they signed the compliance agreement. In the area of property tax, the assessor makes the determination that the property is of sufficient size, has been put to agricultural use for a sufficient term, and is in fact engaged in those things that are described as agricultural. That gets the property an exemption of taxes and is a prerequisite to getting a separate exemption from zoning because you are agricultural. Rather than go out and do a new analysis, Planning and Development relies on the Assessor's initial determination that it qualifies as agricultural. The ordinance also provides if you are engaged in uses on the property that are not agricultural, those are not exempt from zoning. If the use is not related to agricultural that is why it's a violation. The counsel may be correct they did not receive a transcript, but the transcript is irrelevant for this appeal because you don't review the transcript. The counsel said proper notice was not given at the hearing, under the law if you appear at a hearing without raising that as an issue you waived it. In addition, counsel said they were given notice of the right to appeal and the judgment states they have 10 days to appeal and it was in fact given.

Member Schwartz asked about the people that weren't supposed to speak at the hearing. Mr. Peck said it was alleged that objectors questioned the counties witness, if that is true it is for you to decide whether that was somehow affected. If you read the hearing officer's order, the decision was based on the admission and the testimony, no where does it indicate that he relied on any third party.

Member Ward said the respondent asked for time to resolve the violations and then we don't hear from them for a year, and nothing was ever accomplished. Mr. Peck said the only issue you would be considering is anything that happened prior to January 5 hearing. If there is a lag between the date of the compliance agreement and bringing them in for hearing, it could be code enforcement is very busy or there were phone conversations during that time, but that is outside of the parameters of what you are looking at today.

Member Ward said if a motion was made to remand it back does a specific procedural error need to be noted. Mr. Peck said if you were to remand it back because of a procedural error, yes it would be helpful to know where the error occurred.

BOARD ACTION: Member Schwartz motioned to affirm the hearing officer's determination. Member Ward second. Affirmed 4-1. Ayes: Cardon, Schwartz, Ward, Loper. Nays: Personne.

REGULAR AGENDA

TU2023014	Parking of Semi-Truck	District 5
Applicant:	Michele Holley, Will I Miniatures	
Location:	APN 506-40-155 @ 3509 N. 359 th Ave in the Tonopah area	
Request:	Temporary Use Permit to allow for storing of commercial vehicles (semi-truck) inside enclosed shop in the Rural-43 zoning district.	

Mr. Gérard said staff's recommendation is for denial, and the primary reason for that is staff believes this requires a Special Use Permit for a Cottage Industry which can be a long-term entitlement. Remedying a violation requires a compliance agreement, and we do not have a valid compliance agreement with the Holley's at this time.

Mr. Johnson presented TU2023014 and noted the request is to store their commercial vehicle inside an enclosed shop. On January 26, 2021, Code Enforcement sent initial notice of violation V202100112 for Parking of a Commercial Semi-Truck and Flat-bed Trailer in a Residential Zoning District. On March 10, 2021 Code Enforcement site inspection found violations on the subject property involving a commercial business operation in a rural/residential zoning district without the proper zoning entitlement; and parking and/or storage of non-accessory vehicles over 10,000 lbs. A Notice of Violation and Order to Comply (NOTC) was sent to the property owners on March 16, 2021. By September 13, 2021, the owner's received an agricultural exemption under land use case number LU20210077 for a miniature horse farm, exempt from county's zoning authority. Non-agricultural uses are not exempt. On January 5, 2023 after the administrative hearing date for violation V202100112, the hearing officer found the property owners responsible for the violation of unpermitted construction not part of the agricultural use and for commercial business and parking of non-accessory vehicle (semi-truck) not part of the agricultural use. The hearing officer's order included daily noncompliance fines to accrue if deadlines were not met until compliance is verified. No fine amount has been paid to date. The request, if approved, will allow the property owner to park the commercial semi-truck and trailer that has been used in the operating of the farm and used additionally in the owner's freight business in an existing, fully enclosed building while not in use. The TUP is only requested for parking and storage of the semi-truck and trailer and will not include the transport of freight to or from the property, except for hay, horses or cattle as required. The length requested is 6-months. The applicant stated in application documentation that the significant investment in trucks, trailers, and equipment for moving freight of all kinds doing business as Will I Miniatures Transport, a subsidiary of Will I Miniatures Farm #7274. The agricultural exemption currently granted to the subject site does not include the operation of a freight business from the property. Staff is concerned

with the length of time the violation had been unresolved. A Special Use Permit has yet to be filed for the freight business that would cover the extended use of the commercial vehicles subject to violation V202100112. Staff also has concerns regarding the use of unimproved 359th Avenue handling the commercial weight of the semi-truck and trailers. Similar concerns voiced in opposition refer to dust creation and the commercial vehicle damaging the road. Staff is in the opinion that 359th Avenue cannot handle the commercial weight of a semi-truck and attached trailers. The use of a semi-truck in a rural/residential neighborhood also draws safety concerns for neighborhood residences who use 359th Avenue as the only road and access to other parts of the area. It is frequently used by pedestrians and equestrians. The site was posted in accordance with MCZO article 1302.3.1.3. with the required 10-day public notice period. The site was posted on March 10, 2023, the 10 days expired on March 17, 2023. Staff received four memos of public opposition to the application, signed by six property owners. The applicant provided staff eight memos in support of the request, signed by nine property owners. One letter of support was anonymous. On March 20 and March 27, 2023, the applicant provided staff with an exhibit of semi-trucks being stored on residential properties in the neighborhood and letters of support from area neighbors. On April 11, the applicant provided an additional petition of support with seven signatures and an additional letter of support provided as a handout to the board prior to this hearing. Staff has received in total 18 letters in support of the request and 6 in opposition. Neighborhood opposition documents the commercial vehicle with trailers managing multiple point turns to enter through the 21-foot gate that serves as the primary entrance to the property, while doing so, blocking the only access to county paved and maintained Indian School for several property owners who use 359th Avenue to access their properties. The neighborhood falls within radius of 10-miles surrounding Palo Verde Generating Station, where evacuations could be required to protect the public from the effects of exposure to radiation, of which the semi-truck can potentially block the only evacuation route out of the neighborhood. Opposition also centered on the commercial freight business continued operation with the approval of this Temporary Use Permit or future entitlement. The opposition also voiced devaluation of property values due to the commercial business operating in the residential neighborhood without entitlement. Staff is of the opinion that the applicant has not satisfied the requirements of MCZO Article 1302.3.2 regarding other temporary uses. The proposed use creates adverse impacts on surrounding properties and residents. The Board of Adjustment may only approve a Temporary Use Permit by stipulating additional requirements, provided that said stipulations substantially reduce all such adverse impacts. Reviewing county agencies do not have any objections to the request. Staff asks the Board to consider mitigating factors be conditioned if the Board considers approval of the request, including having alternative entrance points used to bring the commercial vehicle and trailers to the subject site that does not interfere or block any easement or right of way at any time and restricted delivery hours, resolve all open violations on the property in a timely manner, and a deadline to apply for and obtain Special Use Permit approval as a condition of this Temporary Use Permit. Staff recommends the Board motion to deny this request.

Member Schwartz asked if the applicant would like 30 days to work with staff to find other options to solve some of the problems. Ms. Michelle Holley said the only reason they decided on the TUP is to give them time to apply for the Special Use Permit since it is a longer process.

Mr. Gérard said the applicant is aware of what staff is suggesting. To remedy the violation is to either apply and obtain a Special Use Permit where they had time to apply for the SUP with fines accruing. They can move the truck to a truck terminal, or document the truck is less than 10,000 lbs.

Mr. Peck said he had the opportunity to confer with their counsel and the Board does not have jurisdiction on this TUP because they are wanting to get an SUP without a compliance agreement. We jointly request the Board grant a 30-day continuance. Staff will sit down with the applicant to work on a new compliance agreement which in the event they need to come back for a TUP. This will eliminate the legal part of it and then it can be heard based on the merits.

Chairman Loper asked the applicant if she is good with the continuance. Ms. Holley said this is just for parking in an enclosed agricultural exempt shop. You cannot see it, and no freight comes in and no freight goes out. It leaves three to five times a month and comes back and it parks. We don't store or haul in materials. We could park at the truck stop, but we spent a lot of money on our equipment, and the truck stops are open to vandalism and theft. We also use it for the farm as we also have cattle. There are many other semi's all over the neighborhood.

Mr. Shaun Holley said parking isn't enforced in our neighborhood. We could park the truck in front of our house legally today and not have a problem until it is petitioned by the residents and approved by Maricopa County Department of Transportation, and they have to post that by the Board of Supervisors. He asked wouldn't you want a truck parked inside an enclosed building other than on the street in front of your house.

Member Ward asked if the fines could cease during the 30-day continuance. Mr. Peck said the hearing officer ordered the fines, but they can be addressed if they enter into a new compliance agreement.

BOARD ACTION: Member Ward motioned for a continuance to the May 18, 2023 hearing. Vice Chair Personne second. Continued 5-0. Ayes: Cardon, Schwartz, Ward, Personne, Loper.

Chairman Loper said he just realized there was someone online that wished to speak. Mr. Peck said a continuance takes precedent and can be done at any time. If you wish to hear from a member of the public you can, but since it was continued they can speak to the case on May 18.

BA2023002	Straight Living Trust (Cont. from 3/16/23)	District 3
Applicant:	Shannon Miller, Miller Fence & Barns	
Location:	APN 211-50-048S @ 38314 N. 15 th Ave. – 19 th 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 request is to obtain a variance for a proposed detached storage shed. This is a flat, one-acre, Rural-43 parcel with a single-family residence. The property is of a pentagonal, "home plate" shape. The site is accessible by way of a 20' easement, which ends in a cul-de-sac that intersects with the two east lot lines. For this reason, the two east lot lines are front lot lines with setbacks measuring 40 feet from each. A storage shed would be located 22 feet from one of these front lot lines, hence the variance request. An aerial of the property was shown with the shed being planned just north of where the car is parked in the driveway. There appears to be viable alternative locations where the shed could be built and still meet regulations. For example, if the shed were built 60 feet further west, 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 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 not displace any vegetation nor encroach on any setbacks. Staff notes there has been public comment received on the request, with one in opposition, arguing that there is no hardship present on the lot to justify a variance to the zoning regulations. Based upon what the applicant has submitted and the staff analysis, staff finds that the request fails to meet the statutory test for variance approval.

Mr. Shannon Miller said he is the contractor representing the property owner. If they move the shed they would have no way to get their horse trailers in and park them. If this was a rectangle lot they would be well within the setbacks, and it is the odd shaped lot preventing them from putting it where they want it. The block walls on each side of the property would prevent anyone from seeing this building. It is a small building 10-feet tall.

Member Schwartz asked what's the circulation flow. Mr. Miller said they enter to the right of the side gate and pull into the back corner to back it in, and if the shed is moved there is no way to get the trailer in. They drive the trailer in and then back it up in that spot and the shed would prevent them from parking there.

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

Vice Chair Personne asked would they have more flexibility if it is under a certain square footage? Mr. Schlimm said they can have a 200 square foot building and this accessory structure is 513 square feet. Mr. Gérard said our ordinance doesn't require zoning clearance for construction building permit for any building under 200 square feet, but the still must meet the zoning requirements of setbacks and lot coverage.

Vice Chair Personne asked would it be possible to have the shed just north of the house and the trucks park north of that. Mr. Miller said if it was located there you would have no access to the shed because the trees are right there, and they do not want to remove them.

Chairman Loper asked where the alternative septic location is. Mr. Miller said in the front of the lot on the south side. He has done a lot of work on this property and there is not any other location to get their trucks in and out.

Member Schwartz said he is not in favor of this because there are other alternative locations. If a tree is in the way you remove the tree and there are ways to comply with the ordinance.

Vice Chair Personne said she agrees with Member Schwartz they can explore some alternative locations and recommend talking with staff for some other locations. Mr. Miller said he doesn't believe there is another location to place the shed, but he is willing to discuss with staff. If the lot wasn't this odd shape they wouldn't need the variance, they would be within the setback.

Chairman Loper said the shape of the lot could be a peculiar condition. Member Schwartz said the lot was knowingly purchased with an irregular shape lot, and the lot did not create the problem since the lot already existed. There are other options that can be looked at to resolve this without a variance. The lot is not a peculiar condition.

BOARD ACTION: Member Cardon motioned to approve BA2023002 with condition 'a'. Member Ward second. Approved 3-2. Ayes: Cardon, Ward, Loper. Nays: Schwartz, Personne.

- a) Variance approval establishes a 22' east setback line for APN 211-50-048S.

BA2023009	Ely Property	District 4
Applicant:	Gregory Seibt, Rutila, Seibt & Nash, PLLC	
Location:	APN 201-17-006L @ 26408 N. 102nd Ave –102nd Ave and Jomax Rd., in the Peoria area	
Request:	Variance to permit:	

- 1) Proposed rear yard coverage of 42% for a detached accessory building within the required rear yard where the maximum coverage is 30% per MCZO Article 1106.2.

Mr. Landis presented BA2023009 and noted approving this request would allow for a proposed rear yard coverage of 42% for a detached accessory building within the required rear yard to allow for the relocation of a permitted but unbuilt combined pool cabana, detached garage, and covered patio structure. The parcel was first developed around 2003 and the current owners took possession of the property in 2018. The lot itself is non-descript and is typical of suburban houses in the northwest valley with no hillside or flood encumbrances. In February of 2022, the owners applied for a permit to develop the subject structure. The first site plan submittal of the permit application showed rear yard lot coverage of 41.5%, and a rear and side yard setback of 6.5' at the southwest corner. The first site plan is what has been submitted for the variance application. Subsequently, the site plan was revised, and the permit was issued in June of 2022 at a rear yard coverage of 29.9%, just under the 30% maximum, and with a rear and side yard setback of 7.2 feet. The existing rear setback allows for a little over 1,800 sq. ft. of coverage by any building or structure. At 29.9%, the permitted structure covers approximately 1,795 sq. ft. of the rear yard. The proposed structure would cover 2,493 sq. ft. of the rear yard. Both the permitted and proposed structure are the same size in square footage, the variance request would simply be to move the structure south on the lot more towards the rear. The applicant has also made a request for a rear setback requirement of 6.5 feet to match the location of the proposed structure. This request is invalid as detached accessory structures are allowed to be within three feet of any rear or side yard setback. Staff is recommending denial on BA2023009 for the following reasons: The applicant has failed to demonstrate there is a peculiar condition facing the property because the lot is compliant with the Rural-43 lot standards and is not encumbered by topographical constraints such as hillside or flood conditions. The applicant has failed to demonstrate the strict application of the MCZO to the applicant's property has caused undue physical hardship that prevents the development of the property as the owners have already received a permit for the same structure but in a slightly more northern location. The applicant has other options to comply with the ordinance such as building a smaller structure or redesigning the structure to be less within the rear setback.

Chairman Loper asked if they attached this so it is part of the principal structure the issue would be setbacks not lot coverage. Mr. Landis said that is correct. The primary structure is more northern than the detached accessory structure.

Mr. Gregory Seibt said he is an attorney representing the property owner. The ordinance has an allocation of 30 percent lot coverage and the buildings proposed exceeds that by 11.1 percent. It would move it back southward into the building envelope. The post for the pool cabana would be in the middle of a walkway that surrounds the pool. The building would house the equipment which is currently sitting in the backyard of the property which is an eyesore. There is a need for an oversized covered garage for the property owner's truck and trailer, and equipment. This is still in compliance with the rear and side yard setbacks. The only variance they need is to increase the building square footage from 30 percent to 41.1 percent. This would increase value of the property and prevent it from being an eyesore. He said they are also open to other options, and noted they are asking for permission in advance instead of coming here asking for forgiveness.

Vice Chair Personne asked if he could clarify the setbacks. Mr. Seibt said the nearest setback would be 6-1/2 feet from the rear or side lot. Vice Chair Personne said she proposes if you take the RV garage and shift it north so you are reducing some of the area that's in the setback, this could get you back to the 30 percent and you wouldn't need a variance. Mr. Seibt said the same proposal was made by staff in their recommendation. Reducing the size wouldn't be feasible since they need all that space, and the pool

cabana is smaller. To move the buildings northward, they would have to shift the entire footprint. Vice Chair Personne said she was talking about just the RV garage; it doesn't seem to have the same conflict with the pool cabana and the covered patio. Mr. Seibt said the drawings shown aren't exactly to scale, he did discuss with his contractor potentially shifting the large RV garage northward. If they were to do that the corner of the building still conflicts with a raised seating area adjacent to the pool and he doesn't believe it will be in the required building envelope. They are willing to explore other options and could even split the difference and possibly shrink the building footprint and move it forward slightly.

Chairman Loper said he would prefer to continue this to allow time to sit down to discuss these other options with staff.

Member Schwartz said it is hard designing something not knowing what you are designing to. He appreciates them wanting to find a solution to achieve their goals. He agrees to continue this to have time to speak with your contractor and staff to figure out what is really needed. They could find out they don't need a variance and wouldn't need to go through this process.

Mr. Seibt said his client would like to explore other options to make this work and agrees to a continuance.

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

BOARD ACTION: Chairman Loper motioned for a continuance to the May 18, 2023 hearing. Member Schwartz second. Continued 5-0. Ayes: Cardon, Schwartz, Ward, Personne, Loper.

BA2023014	Desert Palms Presbyterian Church	District 4
Applicant:	Amanda Lauridsen, Precise Sign	
Location:	APN 232-10-886 @ 13459 W. Stardust Blvd – 135th Ave. & Stardust Blvd, in the Sun City area	
Request:	Variance to permit: 1) Proposed sign setback of 0' where 20' is the minimum permitted per MCZO Article 1402.501.1.5.	

Mr. Gérard said it looks as though the applicant is not present at the hearing nor online. Chairman Loper said according to the Bylaws this would be an automatic continuance.

BOARD ACTION: Chairman Loper motioned for a continuance to the May 18, 2023 hearing. Member Schwartz second. Continued 5-0. Ayes: Cardon, Schwartz, Ward, Personne, Loper.

Adjournment: Chairman Loper adjourned the meeting of April 13, 2023 at 11:31 a.m.

Prepared by Rosalie Pinney
Recording Secretary

April 13, 2023