



# MARICOPA COUNTY, ARIZONA

## Board of Adjustment

### Minutes

### January 20, 2022

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

**MEMBERS PRESENT:** Mr. Greg Loper  
Mr. Craig Cardon  
Ms. Heather Personne  
Ms. Fern Ward

**MEMBERS PRESENT:** Mr. Jeff Schwartz

**STAFF PRESENT:** Mr. Tom Ellsworth, Planning and Development Director  
Mr. Darren Gérard, Planning Services Manager  
Ms. Rachel Applegate, Senior Planner  
Mr. Jose Castañeda, 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

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

**AGENDA ITEMS:** BA2021056, BA2021051, BA2021057, BA2021059, BA2021058

**APPROVAL OF MINUTES:** December 16, 2021

#### **ELECTION OF OFFICERS**

**BOARD ACTION: Vice Chair Ward nominated Chairman Loper to serve as Chairman for 2022, second by Member Personne. Approved 3-0-1. Ayes: Cardon, Personne, Ward. Abstained: Loper.**

**BOARD ACTION: Vice Chair Ward nominated Member Personne to serve as Vice Chair for 2022, second by Member Cardon. Approved 3-0-1. Ayes: Cardon, Ward, Loper; Abstained: Personne.**

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

**BOARD ACTION: Chairman Loper motioned to approve the December 16, 2021 minutes as written.**

Mr. Gerard said item #3 – BA2021058 is moving to the regular agenda, and item #5 – BA2021056 is moving to a February 17, 2022 hearing date, due to a posting error.



**BA2021051 condition;**

- a) Variance approval establishes a 44'-9" lot width for APN 218-33-016E.

**BA2021057 conditions;**

- a) Variance approval establishes a zero (0) feet rear/east setback.
- b) Variance approval will permit screening via 6' high chain link fence with view obstructing material acceptable to staff of the Planning & Development Department.

**BA2021059 condition;**

- a) Variance approval establishes a 10' (west) street-side setback for APN 219-31-068A.

**REGULAR AGENDA**

**BA2021058**

**Norman Property**

**District 2**

**Applicants:**

Frank Dover and Debbie Norman

**Location:**

APN 219-24-093 @ 8540 E. McDowell Rd., in the Mesa area

**Request:**

Variance to permit:

- 1) Proposed front setback of 35' where 50' is the minimum permitted per R1-35 RUPD (ref: Z84-44)

Mr. Castañeda presented BA2021058 and noted the reduction of the front yard setback would facilitate the permitting of a new single-family residence on the site. There are no known violations on the property. The site has a 60-foot wide drainage easement on the northwest corner of the property and a five-foot drainage easement setback. This is typical for the Thunder Ranch Plat, and some of the other adjacent parcels have had a similar situation needing variances or re-plating. The request meets the statutory test for variance approval. The applicant has demonstrated there is a peculiar condition affecting the site and not created in line of title. An undue physical hardship exists that prevents the development of the property. A 60-foot wash dissects the property and takes a quarter of the lot. A 50-foot front yard setback creates a small irregular building envelope limiting overall developable area of the lot. The applicant has worked with staff to reduce the variance request to only 15 feet from the original 25-foot request to reduce the front yard reduction and preserve the character of the subdivision.

Mr. Frank Dover, the applicant said the wash covers a large portion of the lot. They want to build a single-story residence for retirement. The lot makes it difficult to build their house and this is why they went through the variance process. There are several other lots in the neighborhood permitted with similar changes. By moving the house back, it will help save some trees. They do not want to build a two-story home, plus it is a view lot and they do not want to block the neighbors view.

Ms. Debbie Norman, the applicant said we want to build a single-story home because it will be a retirement home. Out of respect for the neighbors, so they can still have a view.

Mr. Stephen Start said he lives nearby to the proposed lot and he was worried this would obstruct their view. He now understand they are building single-story and preserving the trees. It was good see their plans and he does not believe this variance will not be a problem.

Ms. Ivy Coppo said she lives across the street. She is currently in opposition because there is no guarantee this will be a single level home. They could change their mind and it could be a two-story. They would lose their views and it will affect their property values. She would like something in writing to be limited to a single level only before this is approved. If not, they are in opposition to moving an easement that will shift this house closer. When you purchase a piece of land, you should be aware of the rules, the setbacks and the wash that has been in existence. That should be part of their due diligence. She asked if Maricopa County could put in a safeguard this will be a single level only.

Chairman Loper asked could there be stipulation that the property owner agree to limit this to a single-story home. Mr. Gerard said the request is relief from the standard for the 50-foot front east setback. Staff has not considered whether it is one-story or two-story; they are permitted to have a 30-foot high building within this lot.

Mr. Gerard said he would have to defer to counsel. Mr. Peck said no, the test you have to consider is whether there is a peculiar condition of the property, such that applying the ordinance to that property creates an unnecessary hardship. The request is to be closer to the side; the height has nothing to do with that. Recently, the court ruled you have no authority to impose conditions on a variance. Either they meet the statutory test or they do not.

Ms. Coppo asked the variance not be approved until plans have been submitted and reviewed by the HOA's architectural committee. She is highly opposed.

Mr. Peck said the HOA and architectural committee would not factor into the determination; the Board's determination is based on the property, not what they want to build on the property.

Chairman Loper asked Ms. Coppo if her home is one-story or two-story. Ms. Coppo said her home is two-story backing to the mountain preserve with no one behind her, and it doesn't affect anyone else's views. They did not get any variance for their home with a very challenging lot.

Chairman Loper asked if the majority of the homes in that neighborhood are two-story. Ms. Coppo said yes.

Member Cardon asked would the HOA approve this landowner to build a two-story home. Ms. Coppo said it is allowed in our neighborhood.

Chairman Loper asked if anyone else from the public wished to speak on this case.

Mr. Dover said we did go through the correct process and went to the architectural committee first and they sent us a letter stating this is a zoning issue and to go through the County for a variance.

Member Cardon asked if there is any way they would change their desire and want a two-story home. Mr. Dover said no, if we wanted to build a two-story home then we would not need a variance and would have just built it in the current envelope.

Member Cardon said he appreciates the clarity Mr. Peck brings to these discussions.

Member Cardon said as a Board we have a responsibility to look at the peculiar condition, hardships, and keeping the intent, and he agrees with staff to motion for approval.

**BOARD ACTION: Member Cardon motioned to approve BA2021058 with condition 'a'. Member Ward second. Approved 4-0. Ayes: Cardon, Personne, Ward, Loper.**

a) Variance approval establishes a 25' (east) setback line for APN 219-24-093.

**Adjournment:** Chairman Loper adjourned the meeting of January 20 at 10:35 a.m.

Prepared by Rosalie Pinney  
Recording Secretary

January 20, 2022