



MARICOPA COUNTY, ARIZONA

Board of Adjustment

Minutes

April 18, 2019

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

**ROLL CALL/
MEMBERS PRESENT:** Mr. Abe Harris
Mr. Greg Loper
Mr. Jason Morris
Mr. Jeff Schwartz

MEMBERS ABSENT: Mr. Craig Cardon

STAFF PRESENT: Ms. Jen Pokorski, Planning & Development Director
Mr. Darren Gerard, Planning Services Manager
Ms. Rachel Applegate, Senior Planner
Ms. Rosalie Pinney, Recording Secretary

COUNTY AGENCIES: Mr. Wayne Peck, County Attorney

ANNOUNCEMENTS: Chairman Harris made all standard announcements.

APPROVAL OF MINUTES: January 24, 2019

AGENDA ITEMS: BA2018083, BA2019013, BA2019014, BA2019002, BA2019007,
BA2019008, BA2019010, BA2019011, BA2019012, BA2019009

Chairman Harris welcomed Mr. Jeff Schwartz to the Board. Member Schwartz said he is honored to serve on the Board, and it's an honor to give back to the community to help move our County forward.

Chairman Harris requested a motion for approval of the January 24 minutes.

BOARD ACTION: Member Loper motioned to approve the January 24, 2019 minutes. Vice Chairman Morris second. Approved 4-0.

CONTINUANCE AGENDA

BA2018083	Rasa Property	District 3
Applicant/Owner:	David Shaw / Raza Properties, LLC	
Location:	1238 E. Calvary Rd. – 12 th St. & Circle Mountain Rd. in the New River area	
Zoning:	Rural-43	
Request:	Variance to permit:	

- 1) Existing side yard setback of 25' where 30' is the minimum permitted.

Mr. Gerard presented the continuance agenda.

BOARD ACTION: Member Loper motioned to continue BA2018083 to the May 23, 2019 hearing. Vice Chairman Morris second. Continued 4-0.

BA2019013	Our Saviors Lutheran	District 2
Applicant/Owner:	FMQ Development / Our Saviors Lutheran	
Location:	612 S. Ellsworth Rd. – Ellsworth Rd. & Weir Ave. in the East Mesa area	
Zoning:	Rural-43	
Requests:	Variance to permit: <ol style="list-style-type: none">1) Existing light poles height of 35.5' where 18' is the maximum permitted and;2) Existing light poles and signage within the Sight Visibility Triangles where structures greater than 2' in height are not permitted and;3) Waiver of parking area screening requirement along street-side (north) property line.	

BOARD ACTION: Member Loper motioned to continue BA2019013 to the May 23, 2019 hearing. Vice Chairman Morris second. Continued 4-0.

BA2019014	XLNT Investments, LLC	District 1
Applicant/Owner:	JD's River Bottom, LLC / XLNT Investments LLC	
Location:	825 N. Scottsdale Rd. – approx. 400' south of Curry Rd. in the Tempe area	
Zoning:	IND-2	
Requests:	Variance to permit: <ol style="list-style-type: none">1) A proposed medical marijuana dispensary and cultivation site to be separated 72' from an existing medical marijuana facility and;2) A proposed medical marijuana dispensary and cultivation site separated 83' from an existing adult oriented business and;3) A proposed medical marijuana dispensary and cultivation site separated 1,294' from an existing park where 1,500' is required	

Vice Chairman Morris recused himself from this case.

Chairman Harris requested a motion to move item #10 – BA2019014 to the continuance agenda.

BOARD ACTION: Member Loper motioned to move BA2019014 to the continuance agenda. Member Schwartz second. Moved to continuance agenda. 3-0-1 (Morris).

BOARD ACTION: Member Loper motioned to continue BA2019014 to the May 23, 2019 hearing. Member Schwartz second. Continued 3-0-1 (Morris).

Chairman Harris said item #6 – BA2019009 is moving from the consent agenda to the regular agenda.

CONSENT AENDA

BA2019002 **STM Investors LP Property** **District 3**
Applicant/Owner: Drew Bausom, The Construction Zone LTD / STM Investors LP
Location: 4301 E. Upper Ridge Way - Red Ledge Drive & Upper Ridge Way in Clearwater Hills Subdivision
Zoning: Rural-43
Requests: Variances to permit:
1) Proposed side setback of 13'-1" where 30' is the minimum permitted and;
2) Proposed side setback of 18'-11" where 30' is the minimum permitted

BA2019007 **Tebbs Property** **District 2**
Applicant/Owner: James Tebbs
Location: 705 N. 93rd St. – 93rd St. & University Dr. in the east Mesa area
Zoning: R1-8
Request: Variance to permit:
1) Proposed front yard setback of 13' where 20' is the minimum permitted

BA2019008 **Hiway Baptist Church** **District 2**
Applicant/Owner: Eric Bolze, E2 Innovations Inc. / Hiway Baptist Church
Location: 10505 E. Brown Rd. – approx. 640' east of 140th St. & Brown Rd. in the Mesa area
Zoning: Rural-43
Request: Variance to permit:
1) Proposed front setback of 2' for a freestanding monument sign where 20' is the minimum permitted

BA2019010 **Combs Property** **District 2**
Applicant/Owner: David Combs
Location: 14307 N. White Face Canyon – located northwest of Blue Coyote Trail & SR 87 in the Goldfield Ranch area
Zoning: Rural-190
Requests: Variance to permit:
1) Proposed construction of septic outside of building envelope, within hillside area to be setback 19.3' where 30' is the minimum permitted and;
2) Proposed construction of septic outside building envelope, within hillside area to be setback 50.74' where 60' is the minimum (rear/east) permitted and;
3) Proposed residence in the rear (east) setback 32' where 60' is the minimum permitted

BA2019011 **SRPAIPD/ETAL** **District 4**
Applicant/Owner: Melanie Falls, Sun Streams LLC / SRPAIPD/ETAL
Location: 36807 W. Elliot Rd. – approximately 1 ½ miles from the southwest corner of 355th Ave. and Elliot Rd. in the Arlington area
Zoning: Rural-190
Request: Variance to permit:
1) Proposed transmission line pole and support structures of 140' where 120' is the minimum permitted

BA2019012 **Sun Streams LLC** **District 4**
Applicant/Owner: Melanie Falls, Sun Streams LLC
Location: 36807 W. Elliot Rd. – approximately 1 ½ miles from the southwest corner of 355th Ave. and Elliot Rd. in the Arlington area
Zoning: Rural-190
Request: Variance to permit:
1) Proposed transmission line pole and support structures of 140' where 120' is the minimum permitted

Mr. Gerard presented the consent agenda.

BOARD ACTION: Vice Chairman Morris motioned to approve the consent agenda. BA2019002 with conditions 'a'-'c', BA2019007 with conditions 'a'-'c', BA2019008 with conditions 'a'-'d', BA2019010 with conditions 'a'-'c', BA2019011 with conditions 'a'-'c', and BA2019012 with conditions 'a'-'c'. Member Loper second. Approved 4-0

BA2019002 conditions;

- a) General compliance with the site plan stamped received February 22, 2019.
- b) Failure to complete necessary construction within one year from the date of approval shall negate the Board's approval.
- c) Satisfaction of all applicable Maricopa County Zoning Ordinance requirements, Drainage Regulations, and Building Safety codes.

BA2019007 conditions;

- a) General compliance with the site plan stamped received March 7, 2019.
- b) Failure to complete necessary construction within one year from the date of approval, shall negate the Board's approval.
- c) Satisfaction of all applicable Maricopa County Zoning Ordinance requirements, Drainage Regulations, and Building Safety codes.

BA2019008 conditions;

- a) General compliance with the site plan stamped received April 9, 2019.
- b) All required building permit for the proposed development shall be applied for within 120 days of the hearing date unless otherwise directed by the Board. Failure to apply for any required building permit within the specified time, or to complete

necessary construction within one year from the date of approval, shall negate the Board's approval.

- c) MCDOT has the following condition:
 - 1. Brown Road is MCDOT maintained Right-of-Way, and is classified as a Minor Arterial which carries a 65ft minimum half-width requirement. The new sign will be located within 57ft from the center-line of Brown Road, and will therefore be positioned within the future 65ft half-width right-of-way. Please note, at such time in the future MCDOT should choose to develop this section of Brown Road to its full extent, the Church will be required to relocate the sign, out of the future right-of-way, at their own expense.
- d) Satisfaction of all applicable Maricopa County Zoning Ordinance requirements, Drainage Regulations, and Building Safety codes.

BA2019010 conditions;

- a) General compliance with the site plan stamped received March 15, 2019.
- b) All required building permits for proposed development shall be applied for within 120 days of the hearing date unless otherwise directed by the Board. Failure to apply for any required building permits within the specified time, or to complete necessary construction within one year from the date of approval, shall negate the Board's approval.
- c) Satisfaction of all applicable Maricopa County Zoning Ordinance requirements, Drainage Regulations, and Building Safety codes.

BA2019011 conditions;

- a) General compliance with the site plan stamped received March 18, 2019.
- b) Failure to complete necessary construction within one year from the date of approval, shall negate the Board's approval.
- c) Satisfaction of all applicable Maricopa County Zoning Ordinance requirements, Drainage Regulations, and Building Safety codes.

BA2019012 conditions;

- a) General compliance with the site plan stamped received March 18, 2019.
- b) Failure to complete necessary construction within one year from the date of approval, shall negate the Board's approval.
- c) Satisfaction of all applicable Maricopa County Zoning Ordinance requirements, Drainage Regulations, and Building Safety codes.

REGULAR AGENDA

BA2019009

Applicant/Owner:

Emerson Investments

The Construction Zone, LTD / Emerson Investments, LLC

District 3

Location: 4237 E. Upper Ridge Way – Red Ledge Drive and Upper Ridge Way
in Clearwater Hills
Zoning: Rural-43
Request: Variance to permit:
1) A proposed utility enclosure within the required front yard and
0' from the front property line where 40' is the minimum
permitted

Mr. Gerard presented BA2019009 and noted this case was pulled from the consent agenda to revise stipulation 'b'. In paragraph 19 there are conditions 'a'-'c' and they would like to strike condition 'b' and indicate the utility enclosure shall be relocated outside of the ingress/egress easement or said easement redelineated so that the enclosure is not encroaching.

Vice Chairman Morris asked the applicant if this is a custom home in Clearwater Hills. Mr. Drew Bausom, the applicant, said yes it is.

Vice Chairman Morris asked for his clients names. Mr. Bausom said Mike Cowley and Lee Allen.

Vice Chairman Morris said he needs to recuse himself from this matter as well.

Mr. Bausom said he's requesting to have the utility enclosure to be in the front yard setback, and they are proposing to move forward with it being in the front yard setback since there's no other place to put it. They will rededicate that ingress/egress easement so that building would no longer be within it.

BOARD ACTION: Member Loper motioned to approve BA2019009 with conditions 'a'-'c' with modified language to condition 'b' as presented by staff. Member Schwartz second. Approved 3-0-1 (Morris).

- a) General compliance with the site plan stamped received March 13, 2019.
- b) ~~All required building permit for proposed development shall be applied for within 120 days of the hearing date unless otherwise directed by the Board. Failure to apply for any required building permit within the specified time, or to complete necessary construction within one year from the date of approval, shall negate the Board's approval.~~ **The utility enclosure shall be relocated outside of ingress/egress easement or said easement redelineated so that the enclosure is not encroaching.**
- c) Satisfaction of all applicable Maricopa County Zoning Ordinance requirements, Drainage Regulations, and Building Safety codes.

Adjournment:

Chairman Harris adjourned the meeting of April 18, 2019 at 10:11 a.m.

Prepared by Rosalie Pinney
Recording Secretary
April 18, 2019