



MARICOPA COUNTY, ARIZONA

Board of Adjustment

Minutes

July 19, 2018

CALL TO ORDER: Vice Chairman Morris called meeting to order at 10:12 a.m.

ROLL CALL/

MEMBERS PRESENT:

Mr. Abe Harris (Telephonically)
Mr. Jason Morris, Vice Chairman (Acting Chair)
Ms. Wendy Riddell

MEMBERS ABSENT:

Mr. Craig Cardon
Mr. Greg Loper

STAFF PRESENT:

Mr. Darren Gerard, Planning Deputy Director
Ms. Rachel Applegate, Senior Planner
Mr. Eric Smith, Planner
Mr. Raymond Banker, Planner
Ms. Rosalie Pinney, Recording Secretary

COUNTY AGENCIES:

Mr. Robert Swan, County Attorney

ANNOUNCEMENTS:

Vice Chairman Morris made all standard announcements.

APPROVAL OF MINUTES:

May 17, 2018

AGENDA ITEMS:

BA2018042, BA2018040, BA2018043, BA2018036, BA2018044,
TU2018014

Vice Chairman Morris requested a motion for approval of the May 17 minutes.

BOARD ACTION: Member Riddell motioned to approve the May 17, 2018 minutes. Chairman Harris second. Approved 3-0.

Vice Chairman Morris said item #4, BA2018036 is moving to the continuance agenda with a request to be continued to September 13.

CONTINUANCE AGENDA

BA2018036

Applicant:

Location:

Zoning:

Requests:

Hart Property (Cont. from 5/17) District 3

Campbell Hart

202-11-058B - 47812 N. 27th Ave. – Sunset Rd. and 27th Ave. in the
New River area

Rural-43

Variance to permit:

- 1) Hillside disturbance of 700 sq. ft. outside the lot's principal building envelope where hillside disturbance is prohibited; and
- 2) Existing fencing outside the lot's principal building envelope along the east, south, west and north property lines where hillside disturbance is prohibited; and
- 3) Existing fencing located within the 25' x 25' sight visibility triangle (SVT) at the 20' wide ingress/egress and 30' width ingress/egress at the southwest corner of the property where structures greater than 2' high are prohibited.

BOARD ACTION: Member Riddell motioned to continue BA2018036 to September 13, 2018. Chairman Harris second. Continued 3-0.

WITHDRAWN

BA2018042	Faulk Property	District 1
Applicant:	David Faulk	
Location:	2152 W. Comstock Dr. – Elliot & Dobson Rd., in the Chandler area	
Zoning:	Rural-43	
Request:	Variance to permit:	
	1) A proposed single family residence to setback 30 feet from the front (south) property line where 20 feet is the minimum permitted	

The applicant has withdrawn their application, no action required by the Board.

CONSENT AGENDA

BA2018040	Victory Lutheran Church Incorporated	District 2
Applicant:	Charlie Gibson, Bootz & Duke Sign Co.	
Location:	10115 E. University Dr. – Crismon Rd. & University Dr. in the Mesa area	
Zoning:	R1-8	
Request:	Variance to permit:	
	1) Proposed setback of 0' for a freestanding monument sign, where 20' is the minimum required	

BA2018043	Dennis Property	District 4
Applicant:	Gordon Dennis	
Location:	25406 N. 195 th Ave. – west of 195 th Ave., approx. 1,270 north of Happy Valley Rd. in the Wittmann area	
Zoning:	Rural-43 and Rural-43 Military Airport and Ancillary Military Facility (MAAMF) overlay zoning	
Requests:	Variance to permit:	
	1) Proposed rear setback of 4' where a minimum of 40' is required in the Rural-43 zoning district (adjacent to Military Airport and Ancillary Military Facility overlay zoning district) and;	

- 2) A proposed side setback of 25.4' where a minimum of 30' is required

Mr. Gerard presented the consent agenda and noted there is concern the applicant for BA2018043 has used an alias rather than his correct name. Gordon Dennis is the same individual for Baja West known as Gordon Pekrul. Our chief building official previously advised him to complete forms with his correct legal name. Mr. Pekrul owes the County over \$16,000 for services rendered to date and he needs to make plans to pay the outstanding amount before pulling any permits. The outstanding fees due are not against the subject property, and staff is recommending approval of the variance.

Vice Chairman Morris said this is extraordinarily concerning, and he understands this does not affect the property in question.

Member Riddell said she would like to hear from the applicant. Mr. Gordon Dennis said he does not know what staff is talking about.

Member Riddell asked him to state his name for the record. Mr. Dennis said his name is Gordon Dennis and his last name is Pekrul, but he goes by Gordon Dennis all the time.

Vice Chairman Morris asked if he is aware of the fees due to Maricopa County. Mr. Dennis said he has no idea what this is about.

Mr. Gerard said he would ask the finance manager to prepare an accounting and send it to the address listed on your application. Mr. Dennis said accounting from what.

Mr. Gerard said you owe almost \$17,000 for the R.J. Springer Development. Mr. Dennis said he does not understand what he is talking about.

Vice Chairman Morris said staff is going to prepare an accounting and apparently, there are fees due to the County for previous properties and they just brought it to our attention.

Mr. Dennis asked are you going back 15 years. Mr. Gerard said he does not know how many years they are going back; there are fees due for services rendered.

Mr. Dennis asked if he is getting his variance today, or are they blackmailing him. Vice Chairman Morris said it has been brought to our attention that there are fees due, and it is not the subject property. The Board wanted to give you an opportunity to address the statements that have been made by staff, and we are in the middle of considering your variance but we were giving you the courtesy to speak to this.

Vice Chairman Morris said the Board will take on the variance request right now, and asked if he would like to say anything else on the record.

Mr. Dennis said he would like to address the inaccuracy of the noise corridors. He was involved with a group of people spending tens of thousands of dollars hiring experts to determine the accuracy of these noise corridors and they are not at all accurate.

BOARD ACTION: Member Riddell motioned to approve BA2018040 with conditions 'a'-'c' and BA2018043 with conditions 'a'-'d'. Chairman Harris second. Approved 3-0.

BA2018040 conditions;

- a) General compliance with the site plan stamped received May 24, 2018.
- 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.

BA2018043 conditions;

- a) General compliance with the site plan stamped received July 11, 2018.
- 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) There shall be no encroachment of the proposed residence in the Military Airport and Ancillary Military Facility Overlay Zoning District.
- d) Satisfaction of all applicable Maricopa County Zoning Ordinance requirements, Drainage Regulations, and Building Safety codes.

REGULAR AGENDA

BA2018044

Scott Family Trust Property

District 3

Applicant:

Scott Neiss

Location:

37881 N. 10th St. – 10th St. & Joy Ranch Rd., in the Phoenix area

Zoning:

Rural-43

Request:

Variance to permit:

- 1) Addition to an existing single-family residence with proposed side (east) setback of 18.5' where 30' is the minimum required

Mr. Smith presented BA2018044 and noted the site is free of any topographical constraints. The site is significantly larger than the required Rural-43 minimum lot area with a great deal of open land that can be developed. The proposed addition can be at either the north or west side of the residence. The request does not meet the statutory tests required for the granting of the variance.

Mr. Scott Neiss said he is the architect representing the applicant. Mr. and Mrs. Scott currently occupy the house and they both have businesses in the residence. Mrs. Scott has an elderly father she wishes to bring him into the house for fulltime care. The location picked on site is adjacent to the existing two-bedroom wing. Mrs. Scott resides in the master suite on the other side of the house, and Mr. Scott is on the east side in a two-bedroom suite and he uses one

bedroom for his office. They wish to add a 300 square foot addition to the house for Mr. Scott to move into for a bedroom and office. Mrs. Scott's father would occupy the room currently being used by Mr. Scott. The subject property is 2,500 square feet, and there is a 30-foot side yard setback and the existing house is about 31 feet from that property line. The adjacent property to the east would face the addition is a garage. There really will not be a visual impact from any windows or living space on to the new addition and would encompass the same materials, color and texture as the main house. He is requesting the Board grant the variance.

Vice Chairman Morris asked if they have explored alternatives to stay within the setbacks. Mr. Neiss said the rear has an existing patio and it would be unaffordable. The front could be an option but they want to attach the addition to the house. Separate from the main residence would not work because they want to take care of the elderly father without going outside to a separate structure.

Vice Chairman Morris asked if there is opportunity to build onto the west side of the house. Mr. Neiss said it is the garage and studio of Mrs. Scott and we would have to do some serious demolition and renovation to make that happen.

Mr. Gerard said in paragraph 11 of the staff report, we indicated the site is level and free of any physical or topographical constraints, but it is vegetated with a number of deciduous trees adjacent to the residence. Other than the immediate east or west of the residence, there are mature deciduous trees throughout the rear other than renovation of the porch. It would not be possible to have a detached structure since there is already an accessory dwelling unit on the property. It was not in the analysis provided by the applicant and we did not stress the layout of the lot.

Member Riddell asked if there has been any discussion with the neighbors to the east. Mr. Neiss said they tried to contact them but were unsuccessful and they did contact the neighbor across the street, and provided letters of support to staff.

Member Riddell asked what the lines on the eastern edge of the site plan indicate. Mr. Neiss stated that indicates a septic system for the detached guesthouse and the leach field.

Vice Chairman Morris asked how they are utilizing the guesthouse. Mr. Neiss said the father is living in the guesthouse and he would be moving into the main house.

Vice Chairman Morris asked if they considered using the guesthouse for one of the other offices. Mr. Neiss said they are planning to have someone else occupy that space.

Member Riddell asked if they would be maintaining those deciduous trees. Mr. Neiss said yes. The footprint where the addition would go is free from any trees but all the existing trees will be maintained.

Vice Chairman Morris said from an architectural and construction standpoint this makes sense, but the Board needs to fit that into the hardship to grant a variance. Our best basis for a hardship is the mature landscaping and the desire to keep the mature landscaping, which is important for this environment.

Mr. Neiss said because the neighbor to the east has a garage and there is drive and park turnaround area between the future addition and the residence to the east, it still has good separation between structures.

Vice Chairman Morris asked where the septic system is. Mr. Neiss said it is behind the residence on the left side of the property.

Vice Chairman Morris asked if that would limit development in that area. Mr. Neiss said yes.

Member Riddell said she appreciates the applicant asking for the variance in advance, and she appreciates them reaching out to the adjacent neighbors, and with the desire to maintain the existing deciduous trees she is recommending a new stipulation be added.

BOARD ACTION: Member Riddell motioned to approve BA2018044 with conditions 'a'-'c' with inclusion of condition 'd'. Chairman Harris second. Approved 3-0.

- a) General compliance with the site plan stamped received June 19, 2018.
- 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.
- c) Satisfaction of all applicable Maricopa County Zoning Ordinance requirements, Drainage Regulations, and Building Safety codes.
- d) The existing landscaping with mature trees must be maintained in place.**

TU2018014	Temporary Fire Station	District 4
Owner:	Desert Forrest Nursery LLC	
Location:	17007 W. Lawrence Ln. in the Waddell area	
Zoning:	Rural-43	
Request:	Temporary Use Permit (TUP) for a privately operated Fire Station for a 2-year period	

Mr. Banker presented TU2018014 and noted staff has received opposition from the adjacent landowner with concerns of living too close to the proposed fire station, as noise would cause stress and concerns with the safety of their children. Staff believes the temporary fire station is an appropriate temporary solution to provide a crucial community service need to the area as a permanent location is being pursued. Staff is recommending approval.

Member Riddell asked are there any long term plans as to where they may go. Mr. Gerard said they are submitting a Special Use Permit for a permanent location in the same neighborhood to the northwest.

Mr. Forrest Wald the owner of the property said this is not his wanting, he tried to have MCDOT expand the road on the north side but there is a railroad line there. They are taking his land and this is his second eminent domain in the past five years. Rural Metro is a great tenant and they

are great for the community, so he is trying to keep them part of the community and find a location for them. They prefer not to be located on Olive Avenue while under construction because if there is an emergency they cannot wait to be flagged through the construction. When looking at his properties, the only location for a temporary site would be on Lawrence Lane, and for the permanent station, they prefer it to be on Olive Avenue but he is not sure of the new location yet. They are hoping to start working on a permanent location in the next six months, since it takes some time to get the fabricated building ordered.

Mr. Wald said the chief from Rural Metro is here and he wishes to speak. Rural Metro told him they would not turn on their sirens until out of the neighborhood; they are good neighbors and have been his tenants for 10 years. They are respected in the neighborhood and are an asset to the community.

Member Riddell asked for clarity, they have an existing fire station and now they have to remove it because of the construction on Olive Avenue. Mr. Wald said the County is taking our land without us wanting them to take our land - it is eminent domain. They are widening the road when they should have done it the first time. Arizona Department of Transportation (ADOT) took 12 acres from me and the County has taken three acres, and now this will be the fourth acre.

Mr. Gerard said the reason for the temporary station is to maintain service. It is going to be anywhere from six to 24 months to get a permanent station. It is a widening project and they are taking the site where the fire station is, and in order to construct a permanent station they need a temporary station off Olive Avenue to maintain the service.

Member Riddell said she is surprised a fire station needs entitlement. Mr. Gerard said it is a privately operated fire station, and we require fire stations to have a Special Use Permit or be located in commercial except when it is a district. We consider it a government function and we exempt it from zoning.

Vice Chairman Morris asked if you know where the permanent location will be. Mr. Wald said there are variables; one is the timeliness of the road construction, being an emergency service it would be ideal to have them on Olive Avenue but if this construction project takes longer it will be harder to get them out there. The other possibility is south off of Cotton Lane and Lawrence, there's 52 acres that just fell out of escrow and he is working with the agent to see if they could buy one acre and it would be located behind his house. Another option would be where his pond is located, but they are not sure yet and know they need to stay in this vicinity. He is trying to get them a permanent building set up right away. They could choose to move in a different location, but he would like to keep them as his tenant and to help them in this process.

Vice Chairman Morris asked if he has considered other locations on his property that are not adjacent to single-family residences. Mr. Wald said he has property with a large pond and the County says they do not want to relocate a pond because it would be \$300,000 to \$500,000 to relocate. It is a two million gallon pond, 20 feet deep. In the picture, it looks small but it is massive. Another location would be south of that in front of his home. There are several options to consider, but he has to make sure they are willing to go where he places them. They may say they want a completely new site.

Vice Chairman Morris said the reason he asked about the permanent location because the request is for a 24-month temporary location, and realistically if you do not have a location picked out presently, you would need one shortly in order to meet that timeframe. Then you would be back in front of us asking for an extension. Mr. Wald said he is working with designers to design the fire station, and his understanding is Rural Metro would like him to continue being their landlord. He would need to order the building and submit it to the County soon. Right now, it looks more like Cotton Lane, but it is up to Rural Metro as to what location they would like. It would be ideal to purchase that one-acre right behind his single-family residence, which he is one hundred percent okay with it. Who wouldn't want a fire station in their neighborhood; if you have a heart attack, they save your life. He had a worker get sick on the farm and they helped him and saved his life. He is very happy to have them as his neighbor and they are great people.

Mr. Arkadiusz Slomba said he lives next to the proposed fire station and it makes no sense to put a fire station on a street that dead ends behind his property with no other exit, it is a closed street. They will block him and his neighbor's property and it will be dangerous to his children. The bus stops in front of Lawrence Lane to pick up the kids and bring them back. He is a hardworking man, he needs to sleep at night and all the bedrooms are on the east side of their house. They would be very close, 20 or 30 feet away and they would use the sirens when leaving the station. He has a block wall and when he pulls out, he would be against them right away. If he pulls out his RV and it breaks down he would block the street. The neighbors have the same problem. There are some miscalculations, the street is not 22 feet wide, it is 19 feet wide and the gate is 19 feet. They have a garbage truck that comes twice a week that backs into the street since there is no way to turn around. Cotton Lane is going to be under construction all the way to Lawrence Lane, it is going to be the same problem, and they will not have a full exit from the fire station if there is construction around.

Vice Chairman Morris asked if he was contacted and how did he learn about the application. Mr. Slomba said he has the online paperwork and it was posted for a couple of days on the street. It was supposed to be posted for 10 days, there were two postings and one of them was gone after the second day and the other on the ninth. If anyone wants to see it there is no posting there.

Mr. Bob Bombiadi said he is the battalion chief for Rural Metro in charge of the west county operations and this fire station falls under his responsibilities. The reason for the move is the widening project on Olive Avenue. That station services Clearwater Farms and the White Tank Foothills area and it cannot be relocated five miles from there, and we have response time restrictions so it has to be within that same general area. They have a good working relationship with Mr. Wald and they would like to maintain that. He offered the subject site and that works for them, and they are still in the decision-making stages as far as where the permanent location would be. Responding to Mr. Slomba's concerns with the noise and sirens, Lawrence Lane is a very little traveled street and the engines would not turn on the sirens until they get to Cotton Lane, and at 3:00 in the morning, they probably would not even turn them on. The site presently planned to have the apparatus on the east side of the mobile home and that would put some distance from Mr. Slomba's residence and would minimize some of the noise concerns. We have had a good working relationship with the County in creating and putting in fire stations and we would like to continue that. Vice Chairman Morris said Rural Metro has an excellent reputation and he appreciates him coming out.

Vice Chairman Morris noted Mr. Wald is running this application, it is an application for a temporary fire station and he does not remember ever seeing a fire station on a dead-end road on a residential street next door to a single-family residence. He knows this is temporary, but finds it unusual to not have a neighborhood meeting. It would be a good idea to get meet and have that conversation, and have somebody from Rural Metro present to talk about what you anticipate for calls of service, when your peak hours are and when you are less likely to get a call. You have heavy equipment and if you have a bedroom at the front of this single-family residence on a residential street, it is going to be noticed. We want to know how many people are going to be occupying the station. It is not just the apparatus, there will be people coming and going on a residential street that has three homes on it.

Member Riddell asked if they have explored any other locations for the temporary use. Mr. Bombiadi said yes they looked at two other locations and they would have the same issues, utility hookups, water etc. They like the relationship they have with Mr. Wald, and if they need to do this, it might as well be with him because we have had success with that.

Vice Chairman Morris said he would encourage them to keep the relationship with Mr. Wald, and there is nothing more important than public safety.

Vice Chairman Morris asked what the timeframe to move the temporary station is. Mr. Bombiadi said September 15 is the deadline from the County that we have to vacate.

Vice Chairman Morris asked how long it would take to erect a temporary station. Mr. Bombiadi said the manufactured home that Mr. Wald purchased is supposed to be delivered the second week of August, and some of the preliminary site work needs to be done prior to the home being delivered to the site.

Vice Chairman Morris asked what review needs to be done by the County. Mr. Gerard said there are permits already in but they cannot obtain zoning clearance unless there is a Temporary Use Permit approved. There is already technical review done for the drainage clearance for the placement of the unit. This fire station will have minimal improvements, and the manufactured home would be a dormitory and there is going to be outdoor parking for the fire truck.

Mr. Bombiadi said they would have a four post-supported canopy over the apparatus. It is not going to be like a fire station that you may picture in your mind.

Vice Chairman Morris asked how many personnel would be at this fire station. Mr. Bombiadi said three per day on the engine. They also run an ambulance out of this station and half of the 24-hour shift they will be at another location. They will do their shift change, store their ambulance there, and come back in the evening anywhere between 9 p.m. and midnight. They will not be there during the hours of a typical family.

Vice Chairman Morris asked what would be the maximum number of people to be on site. Mr. Bombiadi said counting the ambulance, five per shift and then ten at the shift change.

Member Riddell said she appreciates the neighbors' concerns. She also recognizes Rural Metro as doing an amazing job, and we need to be able to maintain public safety. Her biggest concern is if this is truly a temporary use. If you are back here in two years and there is no other

viable spot for a fire station, this Board would be in a hard spot. She said it is an unusual place for a fire station and they are clearly part of single-family neighborhoods, but it is odd to be on a dead end street.

Member Riddell asked how comfortable they are in two years to be in a new location. Mr. Bombiadi said they made arrangements with Mr. Wald, and he is comfortable that they will not be in that temporary station in two years. They will find another site hopefully on his property, and erect that structure and vacate the temporary one.

Vice Chairman Morris asked if anyone from the public would like to speak on this application. Ms. Kimberly Romero said she is the Maricopa County real estate manager and she has been working with Mr. Wald on the relocation and the condemnation of this property. They have been working with MCDOT and there is some flexibility with timeframe but the timing gets tight.

Vice Chairman Morris said it makes it very difficult for this Board when we are put in a difficult situation. They recognized how important the use is, but it is also extraordinary to just to stick them next door and say it has been done. He would have preferred to see the applicant hold a neighborhood meeting with Rural Metro, and talk about the operations and talk about what can be done. It may not result in unanimous joy and consent and the opposition may not go away, but not having the conversation is somewhat irresponsible. This is a fairly intense use and if I was having this next door to me I would want to sit down and have an opportunity to talk to the operator and find out how long this is going to happen and what it's going to be living next to this use. He does not discount how important the use is, and the fact that it is a fire station is the only reason we would allow a non-residential use in this area. If there is flexibility, he would like to see this moved to the August agenda so there could be some conversation between the adjacent resident, Rural Metro and the landowner.

Member Riddell said she absolutely echoes the Chairs comments, and she would encourage the adjacent resident to sit down and engage in conversation and see if there are things that can be done. That would help Mr. Slomba to mitigate his concerns, and to have an open mind as you visit with them too. This is a critical need and Rural Metro does an amazing job, but it is important that they sit down with the neighbors to see what can be done to work this out.

Mr. Wald said this area will not be residential in the future and the mixed-use general plan that has been online for the past 15 years, Glendale would be the annexing municipality. It is a mixed-use, commercial-use in this area. Vice Chairman Morris said you are right, but the problem is it is a temporary use for 24 months.

Mr. Wald said he has a manufactured home that will be delivered on August 7 to meet the timeline. The County representative said it is flexible a little bit, but when he had his office on Olive Avenue, they only gave him one day to move.

Member Riddell asked Mr. Wald if he would prefer a denial or a continuance. Mr. Wald said do whatever you want.

Vice Chairman Morris said he appreciates the pressure he is under, but you put the pressure back on this Board and we have to make a reasoned decision. You have some time before the manufactured home is delivered, and you took a risk when you ordered the home without a Temporary Use Permit. The Board is very sympathetic to the use and we think the use is

important and can see this use occurring, but there needs to be a community outreach for a use that is this important because it's a community use.

BOARD ACTION: Member Riddell motioned to continue TU2018014 to the August 16, 2018 hearing. Chairman Harris second. Continued 3-0.

Adjournment:

Vice Chairman Morris adjourned the meeting of July 19, 2018 at 11:09 a.m.

Prepared by Rosalie Pinney
Recording Secretary
July 19, 2018