

EXPANDED AGENDA
Board of Adjustment, District 2
January 2, 2013, 6 P.M.
Board of Supervisors' Conference Room
1415 Melody Lane, Building G
Bisbee, Arizona 85603

6:00 P.M. Call to Order

Roll Call (Introduce Board members, and explain quorum)

(Also explain procedure for public hearing, i.e., after Planning Director's Report, Applicant will be allowed 10 minutes; other persons will each have 5 minutes to speak and Applicant can have 5 minutes for rebuttal at end, if appropriate.)

Determination of Quorum

Approval of Previous Minutes

OLD BUSINESS

Item 1 - Introduce Docket and advise public who the Applicants are.

Public Hearing: Docket BA2-12-06 (Golden Rule – Jewelry Antiques & More): The Applicant is requesting a Variance from Section 1908.03 of the Cochise County Zoning Regulations, which allows for a maximum 80 square foot On-Site Advertising Sign. The Applicant is proposing a 144 square foot sign for Golden Rule – Jewelry Antiques & More on Highway 92. The subject parcel (107-66-069) is located at 4301-A S Highway 92 in Sierra Vista, AZ. The Applicant is Kevin Steiner of Golden Rule – Jewelry Antiques & More.

- Call for PLANNING DIRECTOR'S PRESENTATION
- Declare PUBLIC HEARING OPEN
 1. Call for APPLICANT'S STATEMENT
 2. Call for COMMENT FROM OTHER PERSONS (either in favor or against)
 3. Call for APPLICANT'S REBUTTAL (if appropriate)
- Declare PUBLIC HEARING CLOSED
- Call for BOARD DISCUSSION (may ask questions of Applicant)
- Call for PLANNING DIRECTOR'S SUMMARY AND RECOMMENDATION
- Call for MOTION
- Call for DISCUSSION OF MOTION
- Call for QUESTION
- ANNOUNCE ACTION TAKEN (with Findings of Fact)

Item 2 - Call for Planning Director's Report

Item 3 - Call to the Public

ADJOURN



COCHISE COUNTY
COMMUNITY DEVELOPMENT
"Public Programs...Personal Service"

TO: Board of Adjustment, District 2

FROM: Dora V Flores, Permit and Customer Service Coordinator
For: Beverly Wilson, Deputy Director Planning Division *BW*

SUBJECT: Minutes of the Regular Meeting of December 5, 2012

DATE: December 10, 2012

Members Present:

Patrick Greene, Chairman
Albert Young

Staff Present:

Beverly Wilson, Deputy Director Planning Division
Dora V Flores, Permit and Customer Service Coordinator
Peter Gardner, Planner I

Others Present:

Wayne Martin, Applicant
Dana Martin, Applicant
Bob & Deb Eggenberg, Applicants
Dennis McCloskey, Applicant
Don Valenzuela, Public
Kevin Steiner, Applicant

These minutes for the BA2 meeting held on December 5, 2012 are complete only when accompanied by the memoranda for said meeting dated December 5, 2012.

Call to Order / Roll Call:

Chairman Patrick Greene called the meeting to order at 6:00 p.m. at the Board of Supervisors' Executive Meeting Room at the County Complex in Bisbee. He noted that two members of the Board were present, establishing that the Board had a Quorum and could proceed. Mr. Eberwein was absent due to resignation.

Mr. Young made a motion to approve the minutes of the October 3, 2012 regular meeting. Chairman Greene seconded the motion, and the vote was 2-0 to approve the minutes of the October 3, 2012 meeting.

Chairman Greene explained the procedures of the meeting to those present, and moved on to the first docket.

NEW BUSINESS

Docket BA2-12-06 (Golden Rule – Jewelry Antiques & More): The Applicant requested a Variance from Section 1908.03 of the Cochise County Zoning Regulations, which allows for a

maximum 80-square foot On-Site Advertising Sign. The Applicant is proposing a 144-square foot sign for Golden Rule – Jewelry Antiques & More on Highway 92. The subject parcel (107-66-069) is located at 4301-A South Highway 92 in Sierra Vista, AZ. The Applicant is Kevin Steiner of Golden Rule – Jewelry Antiques & More.

Chairman Greene called for the Planning Director's presentation of the Docket. Dora Flores delivered the report on behalf of the Planning Director, illustrating the facts of the case by utilizing photos, maps and other visual aids. She explained the background of the case and the circumstances surrounding the Variance request under consideration. She concluded by offering factors in favor and against approval, as well as the Staff recommendation. Chairman Greene invited questions for Staff. Mr. Young requested clarification on the size of the sign in relation to the building. Ms. Flores explained the size and location of the sign. Chairman Greene asked if we were considering a single sign or all three signs and asked about illumination. Ms. Flores clarified that this was a request for a single sign.

Chairman Greene declared the Public Hearing open, and called for the Applicant's statement. Mr. Steiner, Applicant, responded to the Staff report, disagreeing with the issuance of the Stop Work Order as he had not yet begun mounting of the sign, and knew he needed a permit but was unaware of the size limit. Mr. Steiner showed a letter from the landlord in support of the business and the size and location of the sign. The Applicant also explained how he felt this sign would not impact the surrounding area and explained that cumulatively this sign would not exceed the total allowed signage for the site.

Chairman Greene then closed the Public Hearing and called for Board discussion. Mr. Young requested and received clarification of the makeup of the sign and how much of the sign structure was actually used for signage. Chairman Greene asked about the size of the building. He also asked about the current status of the sign and how difficult it would be for the Applicant to reduce the size of the sign to meet the current regulations. The Applicant stated it would be possible but may waste material already purchased. Chairman Greene requested the Applicant to look at reducing the size as much as possible. The Applicant suggested removing the areas of the sign that were not actual signage. In response to Chairman Greene, the Applicant explained that the business was currently open. Mr. Greene proposed tabling the item until the next month to allow the Applicant the opportunity to reduce the size of the sign and explained his concern with precedent and his desire for the Applicant to show a good faith effort to comply.

Mr. Young made a motion to table this application until the next meeting. Chairman Greene seconded and the motion passed 2 – 0.

Mr. Greene asked the Applicant to try to show a spirit of compliance and reduce the sign by any amount and to be prepared to explain how he would accomplish this for the next meeting.

Docket BA2-12-07 (Martin): The Applicants are requesting a Variance from Section 1804.08 of the Cochise County Zoning Regulations, which requires areas of a site reserved or used for the outdoor storage and display of vehicles, materials or equipment, be improved with at least a dust-free, gravel surface, or with an equivalent or better surface approved by the County Zoning Inspector. The subject parcels (102-39-009 and 102-39-181) are located at 2227 South Naco Highway in Bisbee, AZ.

Chairman Greene called for the Planning Director's presentation of the Docket. Peter Gardner delivered the report on behalf of the Planning Director, illustrating the facts of the case, utilizing photos, maps and other visual aids. He explained the background of the case and the circumstances surrounding the Variance request under consideration. He concluded by offering factors in favor and against approval, as well as the Staff recommendation.

Chairman Greene requested clarification that the request would bring the permit into compliance. Mr. Gardner indicated the requested waiver would do so. Chairman Greene declared the Public Hearing open, and called for the Applicant's statement. Mr. Dana Martin, Applicant, stated his reasons for the variance request and explained that the gravel would cause difficulties in operation of the junkyard. The Applicant noted that the County approached them to bring the property into compliance. Chairman Greene asked Mr. Gardner if there were any environmental concerns and Mr. Gardner explained that there did not appear to be and no complaints had been received from current or former neighbors.

Chairman Greene then closed the Public Hearing and called for the recommendation. Mr. Young made a motion to grant this application for the Variance citing the factors in favor. Chairman Greene seconded and the motion passed 2 – 0. There was no further discussion.

Docket BA2-12-08 (Eggenberg): The Applicant is requesting a Variance from Section 1004.03 of the Cochise County Zoning Regulations, which requires that structures in a MH-72 Zoning District be set back no less than 5-feet from all property lines. The Applicant intends to legitimize a carport built approximately 3-feet, 9-inches from the property line. The subject parcel (107-77-118) is located at 5126 East Finch Circle in Sierra Vista, AZ.

Chairman Greene called for the Planning Director's presentation of the Docket. Peter Gardner delivered the report on behalf of the Planning Director, illustrating the facts of the case utilizing photos, maps and other visual aids. He explained the background of the case and the circumstances surrounding the Variance request under consideration. He concluded by offering factors in favor and against approval as well as the Staff recommendation.

Chairman Greene invited questions for Staff. The Board had no questions.

Chairman Greene declared the Public Hearing open, and called for the Applicant's statement. Mr. Eggenberg, Applicant, did not make a statement.

Chairman Greene then closed the Public Hearing and called for Board discussion. Chairman Greene questioned Mr. Eggenberg regarding the failure to obtain a permit. Mr. Eggenberg stated he built the carport to save his vehicles from sun damage and also stated that he was unaware that a permit was required for the carport. The Applicant also explained the location of the carport. Mr. Young and Chairman Greene asked Staff for clarification of the construction of the carport and its compliance with Building Code, which Mr. Gardner provided.

Chairman Greene asked for the Planning Director's recommendation and summary. Staff recommended approval without conditions, based on the factors favoring approval, specifically approving the carport as located rather than specifying a specific setback.

Chairman Greene called for a motion. Mr. Young made a motion to grant the Variance citing the factors in favor. Chairman Greene seconded and the motion passed 2 – 0.

There was no further discussion.

Docket BA2-12-09 (McCloskey): The Applicant seeks to establish a Restaurant in a General Business Zoning District and is requesting variances from the following Sections of the Cochise County Zoning Regulations: 1804.05 (minimum number of parking spaces); 1804.06 (minimum driveway width); 1804.07 (to allow gravel drive/parking); 1804.09 (aisle width for back up area from parking); 1804.10 (loading zone requirement); 1806.02 (landscaping requirement); 1905.01 (for signage projecting into Right of Way); 1905.02 (for signage in sight triangle); 1905.03 (for signage within 10' of Right of Way); and 1905.06 (for signage with moving parts). The subject parcel, (408-18-021A) is located at 2116 N. Douglas Avenue, Douglas, AZ.

Chairman Greene called for the Planning Director's Presentation of the Docket. Peter Gardner delivered the report on behalf of the Planning Director, illustrating the facts of the case utilizing photos, maps and other visual aids. He noted that two of the requested variances were not necessary and would not be considered. He explained the background of the case and the circumstances surrounding the Variance request under consideration. He concluded by offering factors in favor and against approval as well as the Staff recommendation.

Chairman Greene invited questions for Staff. Mr. Young requested clarification on the delay agreement proposed by the County Engineer. Mr. Gardner explained the current scenario and the compromise proposed by Staff.

Chairman Greene declared the Public Hearing open, and called for the Applicant's statement. Mr. McCloskey, stated that he didn't know he needed any permits and explained his issues with utilities on the property that have driven the need for permits and variances. He also explained that the business was part time and that he felt County requirements were excessive and resented being held to them. Mr. McCloskey clarified the sign construction and felt that it was easy to fix. He further stated that most of his customer base consisted of Public Safety Officers and explained his small profit margin. He also asked for clarification of the Right-of-Way issues. Chairman Greene asked for a statement from the Landlord. Mr. Valenzuela reiterated the nature of the business.

Chairman Greene then closed the Public Hearing and called for Board discussion. Mr. Young requested clarification of the Right-of-Way and Apron issues, which Mr. Gardner provided. Ms. Wilson explained the purpose of Apron requirements. Mr. Gardner explained how this use did not fit neatly into the current regulations and provided more background information. Chairman Greene asked for further clarification of similar carts and how they differed from this use. Mr. Gardner provided the information. Chairman Greene asked the Applicant if the trailer was set up at other locations. The Applicant answered in the negative. Chairman Greene asked about seating or if the service was grab and go, which the Applicant explained. Chairman Greene expressed concern that this issue was a tempest in a teapot and expressed his encouragement for similar businesses.

Chairman Greene asked for the Planning Director's recommendation and summary. Mr. Gardner reminded the Board that a tie vote would fail. Mr. Gardner recommended partial approval with

conditions provided by the County Engineer, based on the factors favoring approval. Chairman Greene asked for clarification on the Site Triangle issue. Chairman Greene asked about the vehicles coming and if there had been any traffic issues. Mr. McCloskey provided clarification. There was further discussion about relocating the sign. Mr. McCloskey again asked about the legal Right-of-Way issue, which Mr. Gardner explained. Chairman Greene asked if there were deliveries taken on site. Mr. McCloskey stated there were not.

Chairman Greene called for a motion. Mr. Young made a motion to grant this application as recommended by Staff for the Variances recommended, citing the factors in favor. Chairman Greene seconded and the motion passed 2 – 0. Mr. Gardner reminded the Board of the compromise proposed by the County Engineer and that as it currently stood there was no leeway on the driveway. Mr. Young made a motion to grant the compromise proposed by the County Engineer. Chairman Greene seconded and the motion passed 2 – 0.

There was no further discussion.

Planning Director's Report:

Mr. Gardner informed the Board that the only BA2 Docket for next month was the Docket tabled at this meeting. The date of the meeting was discussed and established as January 2, 2013.

Mr. Young made a motion to adjourn. Chairman Greene seconded, and the meeting was adjourned at 7:15 p.m.



COCHISE COUNTY COMMUNITY DEVELOPMENT

"Public Programs...Personal Service"

MEMORANDUM

TO: Cochise County Board of Adjustment, District 2
FROM: Peter Gardner, Planner I *PG*
FOR: Beverly Wilson, Deputy Director, Planning Division
SUBJECT: Docket BA2-12-06 (Golden Rule Jewelry)
DATE: December 26, 2012, for the January 2, 2013 Meeting

REQUEST FOR A VARIANCE

Docket BA2-12-06 (Golden Rule – Jewelry Antiques & More): The Applicant is requesting a Variance from Section 1908.03 of the Cochise County Zoning Regulations, which allows for a maximum 80-sq. ft. On-Site Advertising Sign. The Applicant is proposing a 144-sq. ft. sign for Golden Rule – Jewelry Antiques & More located at 4301-A South Highway 92 in Sierra Vista, AZ.

The subject parcel (107-66-069) is further described as being situated in Section 30 of Township 22, Range 21 East of the G&SRB&M, in Cochise County, Arizona.

The Applicant is Kevin Steiner of Golden Rule – Jewelry Antiques & More.

I. DESCRIPTION OF SUBJECT PARCEL AND SURROUNDING USES

Parcel Size: 1.13 acres
Zoning: GB (General Business)
Growth Area: Growth Category B
Plan Designation: Enterprise
Area Plan: Sierra Vista Sub-Watershed
Existing Uses: Retail sales; two restaurants; beauty shop and bail bonds office
Proposed Uses: Same, with a 144-sq. ft. On-site Advertising wall sign

Surrounding Zoning and Uses

Relation to Subject Parcel	Zoning District	Use of Property
North	GB	Liquor Store – Cactus Spirits
South	GB	Strip Mall – Sunshine Plaza
East	GB	Vacant Undeveloped Land
West	State Highway– SR-43	Highway 92– Single Family Residential

II. PARCEL HISTORY

- June 1978 – A permit was issued for a restaurant and six stores.
- February 1993 – A permit was issued to expand the antique store.
- September 2012 - Stop Work Order issued for a sign without a permit.
- Plus many more permits have been issued throughout the years for signs, tenant improvements and other changes of use in the suites.

III. NATURE OF REQUEST

The Applicant seeks a permit to install a 144-sq. ft. illuminated on-site advertising wall sign for Golden Rule - Jewelry Antiques & More. On the Variance application, the Applicant conveys that, “Due to the nature of the location of our business we feel it necessary to have a larger sign to let people know we are there so our business will succeed.”

**This request was considered at the December 5, 2012 regular BA2 meeting, but was tabled in order to allow time for the Applicant to consider reducing the sign’s square footage.*

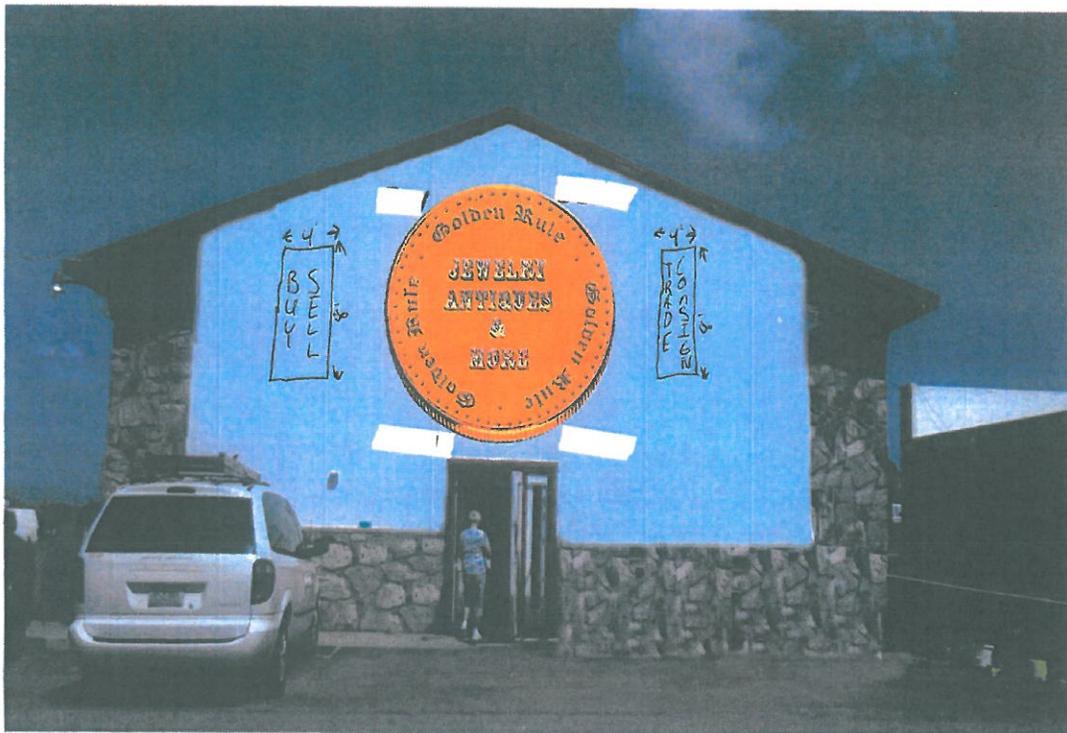


Above: East view of the subject building where the sign is to be placed from South Highway 92.
The area of the front of this building is approximately 400-sq. ft.

The wall-mounted sign is classified as an On-Site Advertising Wall Sign per Article 19 of the Zoning Regulations. The maximum permitted size of an On-Site Advertising Sign is 80-sq. ft. The Applicant was prepared to install a 144-sq. ft. wall-mounted sign, which is approximately 180% of the maximum allowable size. However, after staff issued a citation for preparing to install the sign without a permit, the Applicant applied for a commercial permit.

The sign regulations are designed to prevent the over-concentration, improper placement, and excessive height, bulk, and area of signs in order to promote an optimum level of signage consistent with the needs and characters of different areas; to permit legible and effective signage of individual sites for the convenience of the public and in the interest of the full enjoyment of property rights; and to prevent the obstruction by sign clutter of traffic visibility, traffic signs and signals, neighboring uses and signs, and to preserve scenic views.

The subject building sits approximately 50-feet from the edge of the pavement from South Highway 92 and approximately 40-feet from the edge of the right-of-way.



Above: East view of the subject building showing where the sign is to be placed on the building.

V. PUBLIC COMMENT

The Department mailed notices to neighboring property owners within 300-feet of the subject parcel. Staff posted a legal notice on the property on September 26, 2012, and published a legal notice in the *Bisbee Observer* on October 11, 2012. To date, no comments from the public have been received.

VI. SUMMARY AND CONCLUSION

Factors in Favor of Allowing the Variance

1. Given the location of the project site along a major transportation corridor with a wide right-of-way, and the type of sign proposed (on the business's wall), the request to allow the oversized sign is unlikely to cause significant off-site visual impacts to the surrounding area.
2. County government has been engaged in an ongoing effort to make government operations, administration of Zoning and other regulations, and permitting requirements more "customer and business friendly." Permitting the sign as proposed would reinforce this effort.

Factors Against Allowing the Variance

1. The Applicant began installation of the sign without a permit.
2. Although Board of Adjustment cases are considered on a case-by-case basis and are not considered as "precedent setting," a favorable ruling on this Docket could be taken as such.
3. Size restrictions in the County's sign code are intended to prevent a crowded visual appearance.
4. As proposed, the sign face is approximately 180% of the maximum permitted size for On-site Advertising signs, a significant deviation from the maximum permitted size of 80 sq.-ft.

VII. RECOMMENDATION

Based on the Factors Against Approval as Finding of Facts, staff recommends **Denial** of the Variance request as initially proposed at 144 square feet. The sample motion below is worded in the affirmative for clarity.

Sample Motion: *Mr. Chair, I move to approve Docket BA2-12-06, granting the wall-sign Variance as requested by the Applicant, the Factors in Favor of approval constituting the Findings of Fact.*

VIII. ATTACHMENTS

- A. Variance Application
- B. Location Map
- C. Site Plan