

**EXPANDED AGENDA**  
**Board of Adjustment, District 3**  
**Tuesday, February 11, 2014**  
**J.P. Courtroom, County Service Center**  
**126 W. 5<sup>th</sup> Street**  
**Benson, Arizona**

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6:30 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 may have 5 minutes for rebuttal at end, if appropriate.)

Determination of Quorum

Approval of Previous Minutes

**NEW BUSINESS**

*Item 1 (Page 1) – Introduce Docket and advise public who the Applicants are.*

**Docket BA3-14-02 (Mustang Mountain):** The Applicant proposes to change the use of an existing retail establishment to a church, and requests a Variance from Section 1804.07.C.1 of the Cochise County Zoning Regulations, requiring a DBST surface in all parking areas. The Applicant is requesting to use gravel in lieu of DBST. The subject parcel, 106-05-018F, is located at 2281 N. Highway 90, in Huachuca City, AZ. The Applicant is Larry Whitney.

**Applicant:** Ms. Heather Anderson

- 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)

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**Call for Planning Director's Report**

**Call to the Public**

**ADJOURNMENT**



# COCHISE COUNTY COMMUNITY DEVELOPMENT

"Public Programs...Personal Service"

**TO:** Board of Adjustment, District 3  
**FROM:** Peter Gardner, Planner I *PPG*  
**FOR:** Beverly Wilson, Planning Director *BW*  
**SUBJECT:** Final Minutes of the Regular Meeting of January 14, 2014  
**DATE:** January 29, 2014

**Members Present:**

Paul Brick, Chairman  
Shawn Wales, Vice-Chair  
Helen Barnard, Member

**Staff Present:**

Peter Gardner, Planner I

**Others Present:**

Heather Anderson - Applicant

*These minutes for the BA3 meeting held on January 14, 2014 are complete only when accompanied by the memoranda for said meeting dated January 14, 2014.*

**Call to Order / Roll Call / Election:**

Chairman Paul Brick called the meeting to order at 6:30 p.m. at the J.P. Courtroom at the County Service Center in Benson. He explained the procedures of the meeting to those present, and noted that all members of the Board were present and that as such, a quorum was established and business could proceed.

Mr. Wales made a motion to approve the minutes of the September 11, 2013 regular meeting. Ms. Barnard seconded the motion, and the vote was 3-0 to approve the minutes of the September 11, 2013 meeting.

Ms. Barnard made a motion to maintain the existing Officers, which Mr. Wales seconded. The motion passed unanimously.

**NEW BUSINESS**

**Docket BA3-14-01 (Anderson):** The Applicant proposes to change the use of an existing auto repair facility to a car sales lot, and requests Variances from the following Sections of the Cochise County Zoning Regulations; 1804.06.F.3 (Minimum Driveway Width); and 1804.07.C.1 (Substitution of gravel for DBST in driveways and parking areas). The subject parcel, 106-16-039, is located at 86 E. Redwing Drive, in Huachuca City, AZ.

Chairman Brick called for the Planning Director's presentation of the Docket. Mr. Peter Gardner

delivered the report, illustrating the facts of the case utilizing photos, maps and other visual aids. He explained the proposed project and the nature of the requested Variances. Mr. Gardner explained the limited nature of the Applicant's proposal, and Staff's concerns if the use expanded. He concluded by offering factors in favor and against approval.

Chairman Brick invited The Applicant to speak. Ms. Anderson explained the scope of the project and the nature of her business. She explained that her sales were internet based, but state law required her to have a site to be open for legal purposes. Mr. Wales asked Mr. Gardner for further explanation of a statement regarding the existing paving driving the requirement for the DBST rather than gravel. Mr. Wales expressed concern about the County requirements regarding driveway and parking surfaces. Ms. Barnard expressed support for the flexibility to revisit the issue if the Applicant's business expanded.

Chairman Brick declared the Public Hearing open, but there being no one wishing to speak, he closed the Public Hearing and called for Staff Summation and Recommendation. Mr. Gardner explained that Staff recommended Conditional Approval of the requested Variances, with the Condition that an expansion of the use would trigger a reanalysis of the driveway. Ms. Barnard asked if the Board wanted to define the expansion threshold. Mr. Gardner asked Ms. Anderson how many cars she sold per month on average. Ms. Anderson stated that her average monthly sales was about three or four cars. Mr. Gardner stated that Staff was comfortable with a ten-fold increase before any new analysis was required. He also stated that an expansion to full time hours, or a new owner would also trigger a reanalysis.

Chairman Brick called for a motion. Mr. Wales made a motion to grant the Variance, with the condition recommended by Staff citing the factors in favor. Ms. Barnard seconded the motion and Mr. Brick called for a vote. There was no further discussion.

The vote was 3-0 to approve the motion.

#### **Planning Director's Report:**

Mr. Gardner offered a brief Director's Report, informing the Board that there was one Docket for the next month. The proposed Zoning Regulations changes were discussed as well.

Ms. Barnard made a motion to adjourn. Mr. Wales seconded, and the meeting was adjourned at 7:14 p.m.



# COCHISE COUNTY COMMUNITY DEVELOPMENT

"Public Programs...Personal Service"

## MEMORANDUM

**TO:** Cochise County Board of Adjustment, District 3  
**FROM:** Peter Gardner, Planner I *PG*  
**FOR:** Beverly Wilson, Planning Director *BW*  
**SUBJECT:** Docket BA3-14-02 (Mustang Mountain)  
**DATE:** January 29, 2014 for the February 11, 2014 Meeting

### APPLICATION FOR VARIANCE

**Docket BA3-14-02 (Mustang Mountain):** The Applicant proposes to change the use of an existing retail establishment to a church, and requests a Variance from Section 1804.07.C.1 of the Cochise County Zoning Regulations, requiring a double-bituminous surface treatment (DBST or chip-seal) surface in all parking areas. The Applicant is requesting to use gravel in lieu of DBST. The subject parcel, 106-05-018F, is located at 2281 N. Highway 90, in Huachuca City, AZ. The Applicant is Larry Whitney.

### I. DESCRIPTION OF SUBJECT PARCEL AND SURROUNDING USES

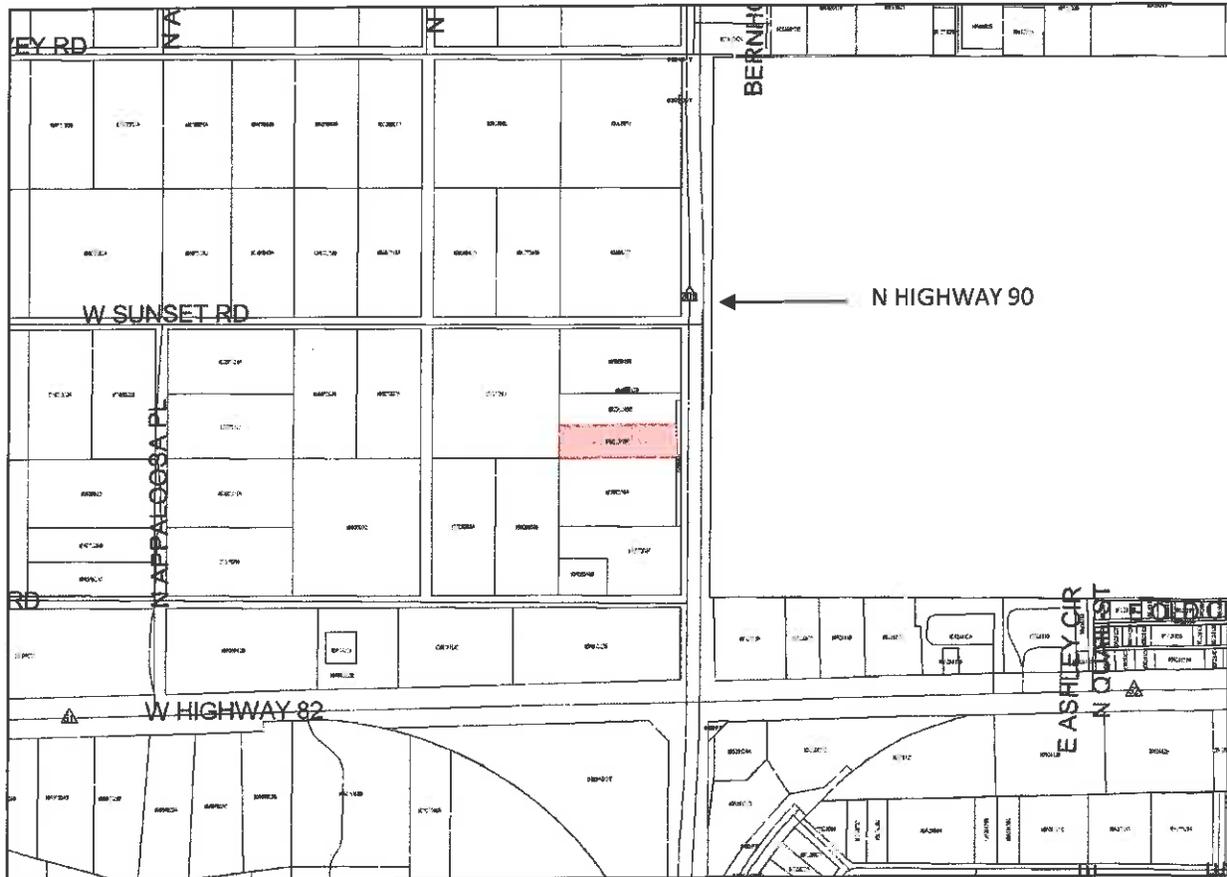
**Site Size:** 2.11-acres  
**Zoning:** GB (General Business)  
**Growth Area:** Category B (Community Growth Area)  
**Plan Designation:** Developing  
**Area Plan:** None  
**Existing Uses:** Retail Establishment  
**Proposed Uses:** Church

#### Surrounding Zoning and Uses

Relation to Subject Parcel	Zoning District	Use of Property
North	GB	Contract Construction Services
South	GB	Single Family Residential
East	State Highway/RU-4	N. Highway 90/Grazing Land
West	SR-174	Vacant Land

### II. SITE HISTORY

- 1993– Permit to construct building issued
- 1994 – Permit to establish Retail Store issued
- 1996 – Permits issued to construct fence and porch
- 2000 – Permit for sign issued
- 2014 – Permit to establish Church issued, conditional on Variance approval



Above: Location Map

**III. PROJECT DESCRIPTION**

The Applicant proposes to use the existing structure as a Church. The Applicant is proposing to use the existing 2” gravel parking surface in place of the required double-bituminous surface treatment (chip-seal) parking surface.

**IV. ANALYSIS OF IMPACTS**

The current proposal, according to the Applicant, is intended as a temporary location until a permanent facility may be constructed. Due to the nature of the use, a Church, the expected traffic generated will be substantially lower than the previous use of a Retail Establishment. While the traffic will be concentrated into one day, the overall traffic impact will be minimal. The existing gravel surfacing in the parking area is in excellent condition, and serves the Contract Construction Yard on the adjoining parcel as well. In addition there are several paved parking spaces which include the required ADA accessible space. Staff is confident that the existing surface will adequately and safely serve the proposed use.

**V. PUBLIC COMMENT**

The Department mailed notices to neighboring property owners within 300-feet. Staff posted the property on December 19, 2013 and published a legal notice in the *Bisbee Observer* on the same date. To date, the Department has received one letter of support from a neighboring property owner.



*Above: View of the existing parking area, including paced spaces. Below: View of existing parking area and driveway from frontage road.*



**VI. SUMMARY AND CONCLUSION**

**Factors in Favor of Approving the Variance**

1. Approving the Variance would not substantially impact neighboring properties;
2. County government has been engaged in an ongoing effort to make government operations, administration of Zoning and other regulations, and permitting requirements more “business and customer friendly.” Allowing the Variances would reinforce this effort;
3. The existing parking is in good condition and will safely accommodate the expected traffic for this specific use; and
4. Staff has received one letter of support from a neighboring property owner.

**Factors Against Approving the Variance**

None Apparent

**VII. RECOMMENDATIONS**

Based on the Factors in Favor of Approval as Findings of Fact, Staff recommends **approval** of the Variance as requested.

*Sample Motion: Mr. Chair, I move to approve Docket BA3-14-02, granting the 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
- D. Public Comment



# COCHISE COUNTY COMMUNITY DEVELOPMENT

"Public Programs...Personal Service"

BAS-14-02  
Feb Feb 11

## APPLICATION FOR VARIANCE

DESIRING A VARIANCE FROM THE TERMS OF THE COCHISE COUNTY ZONING REGULATIONS:

TO THE HONORABLE BOARD OF ADJUSTMENT, DISTRICT 3

I (we), the undersigned, hereby petition the Cochise County Board of Adjustment, District 3

to grant a variance from the terms of the Cochise County Zoning Regulations as follows:

(Note: Complete all the following items. If necessary, attach additional sheets.)

- Parcel Number: 106 05 018F
- Address of parcel: 2281 N. Hwy 90  
Whetstone, AZ
- Area of Parcel (to nearest tenth of an acre): 2.02 Acres
- Zoning District designation of Parcel: G-13
- Describe existing uses of the parcel and the size and location of existing structures and buildings on it.  
mercantile 30x90

- Describe all proposed uses or structures, which are to be placed on the property.

Church in existing Building

- State the specific nature of the variance or variances sought.

Variance sought For Gravel parking lot

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8. A variance may be granted only when, due to any peculiar situation surrounding a condition of a specific piece of property, including unusual geographic or topographic conditions, strict application of the Zoning Regulations would result in an unnecessary hardship to the property owner. In granting variances, however, the general intent & purpose of the Zoning Regulations will be preserved (See attached Section 2103.02 on variances). Describe the reasons for requesting the variance and attach any documents necessary to demonstrate compliance with the provisions cited above.

*This is a temporary location. We will be building our permanent in 2014.*

9. State why the variance would not cause injury to or impair the rights of surrounding property owners. Identify conditions you propose, if any, to minimize the impact on surrounding properties. It shall be the responsibility of the Applicant to submit any studies and/or data necessary to demonstrate the effectiveness of the alternative conditions.

*The conditions are existing. The adjoining business has gravel as well.*

10. List the name and address of all owners of the Parcel(s) for which the variance is sought.

<u>PROPERTY OWNER</u>	<u>MAIL ADDRESS</u>
<i>Scott Grindy</i>	<i>2281 N. Highway 90, Huachuca City 85616</i>

The undersigned hereby certifies and declares that to the best of his/her knowledge and belief the data submitted on and attached to this application for a variance from the terms of the Cochise County Zoning Regulations are true and correct.

SIGNATURE OF PETITIONER

ADDRESS

DATE


832 W. Rustlers
12-16-13

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Huachuca City Az

APPLICANT'S PHONE NUMBER 520 - 456 - 2683

APPLICANT'S EMAIL ADDRESS Rednek ranch @ C15 - Broadband . com

Note: Each application shall be accompanied by an accurate site plan showing the parcel of land and the existing and proposed structures and buildings on it, and shall be accompanied by a check in the amount of three hundred dollars (\$300) payable to the Cochise County Treasurer. Return to the Cochise County Planning Department, 1415 Melody Lane, Building E, Bisbee, Arizona, 85603.

2103.02 Variances

The Board of Adjustment may grant a variance from the terms of these Zoning Regulations when, owing to peculiar conditions, a strict interpretation would work an unnecessary hardship, if in granting such variance the general intent and purposes of the Zoning Regulations will be preserved. It shall be the responsibility of the applicant to submit any studies and/or data necessary to demonstrate the effectiveness of the alternative conditions.

These zoning regulations are generally intended to yield results that are in compliance with all other applicable laws. A request for a "reasonable accommodation" in these regulations, pursuant to any federal or state housing law or other similar legislation, as may be necessary to afford an equal opportunity to housing under any such law, shall be considered to be an appropriate condition for a variance from the strict application of these zoning regulations. The Board of Adjustment is authorized to grant any such variance, to the extent that any such accommodation is required pursuant to any applicable state or federal law.

Any decision of the Board of Adjustment allowing a variance shall be considered for revocation by the Board of Adjustment if substantial construction, in accordance with the plans for which such variance was granted, has not been initiated within 12 months of the date of approval, building permit issuance, or if judicial proceeding to review the Board of Adjustment's decision has been instituted, 12 months from the date of entry of the final order in such proceedings, including appeals. Additionally, if any of the conditions of the variance approval are not complied with within 12 months or within the time period set by the Board, it shall be revoked after 30 days notice to the owner and applicant, unless a request for a review hearing before the Board of Adjustment is made by the applicant within this 30 day appeal period. The Board of Adjustment may grant reasonable extensions to the time limits upon a hearing pursuant to a timely written request by the applicant.

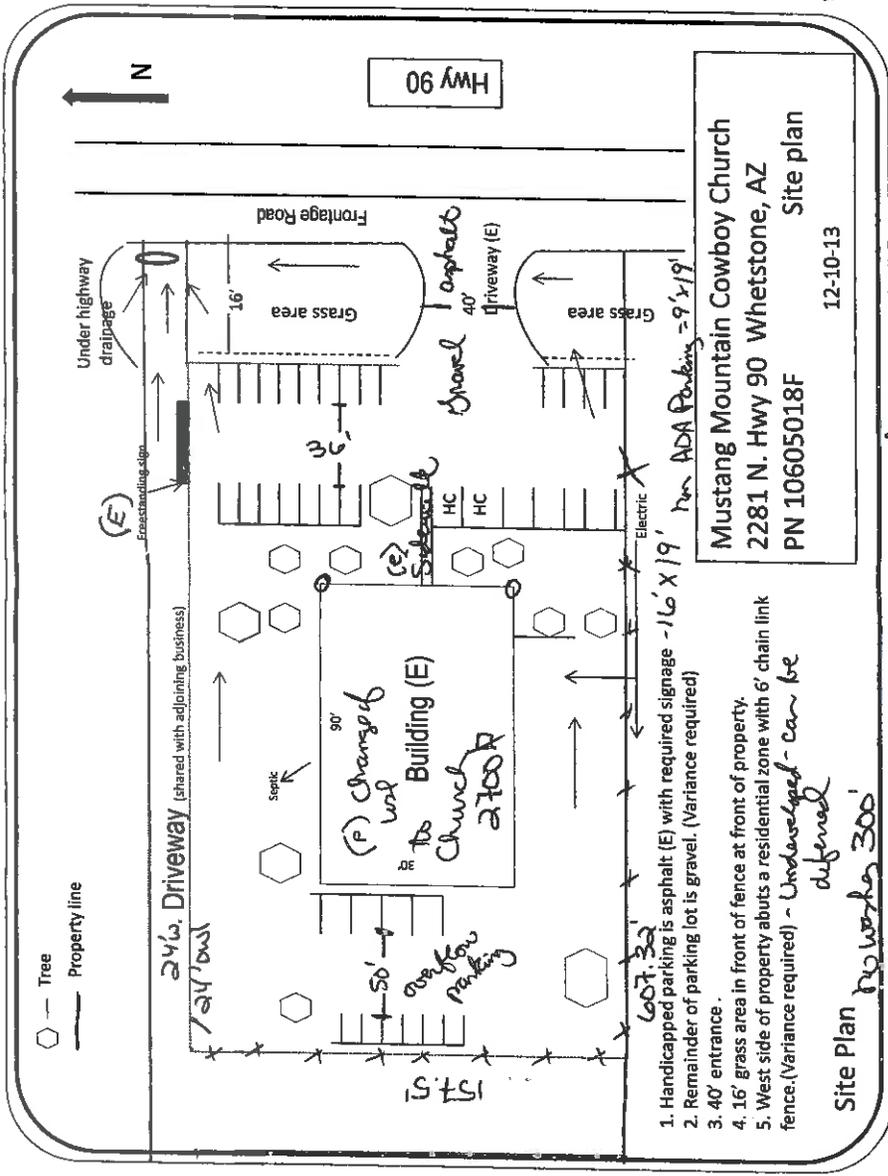
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3-14-02 (Mustang Mount

This map is a product of the Cochise County GIS

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J  
 12-10-13

X = 6' unstudded chainlink fence  
 O = Flood lights

# Variances: Docket BA3-14-02 (Mustang Mountain)

       YES, I SUPPORT THIS REQUEST

Please state your reasons:

We support the request for change from retail establishment to a church  
We also see no reason for the parking lot to be changed from gravel to DBST at this time there is not enough traffic in a weeks time for the surface to be changed  
The owner, Mr. Scott Bundy has kept the gravel area in excellent shape. Also there is Black top already in front of part of the building for any handicap parking  
So we ask that a variance be granted to Mr. Whitney.

       NO, I DO NOT SUPPORT THIS REQUEST:

Please state your reasons:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(Attach additional sheets, if necessary)

Whetstone SW Pottery & Studio - WPF North LLC - 10605034A  
PRINT NAME(S): James and Diana Wales - WPF South LLC - 10605034C

SIGNATURE(S): \_\_\_\_\_  
\_\_\_\_\_

YOUR TAX PARCEL NUMBER: 10605034C (the eight-digit identification number found on the tax statement from the Assessor's Office)

Your comments will be made available to the Board of Adjustment District 3 on February 11, 2014. Upon submission this form or any other correspondence becomes part of the public record and is available for review by the applicant or other members of the public. To ensure adequate review time by members of the Board, this form is due to our Department by Thursday, January 30, 2014.

COCHISE COUNTY

RETURN TO: Peter Gardner - Planner I  
Cochise County Planning Department  
1415 Melody Lane, Building E  
Bisbee, AZ 85603

JAN 22 2014

PLANNING

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