

EXPANDED AGENDA
Board of Adjustment, District 2
April 3, 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

NEW BUSINESS

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

Docket BA2-13-02 (Yesca): The Applicants are requesting a Variance from Section 1004.03 of the Cochise County Zoning Regulations, which requires that structures in a MR-1 Zoning District be set back no less than 5-feet from all property lines. The Applicant intends to legitimize a second home built approximately 4-feet from the south property line. This Variance request is pending a rezoning to MR-1 from TR-9 to accommodate the second dwelling.

The subject parcel (102-57-338) is located at 3790 South Giesler Ave. in Naco, AZ. It is further described as being situated in Section 18 of Township 24, Range 24 East of the G&SRB&M, in Cochise County, Arizona. The Applicants are Maria Yesca and David Rogers.

- 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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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: Peter Gardner, Planner I *PG*
For: Beverly Wilson, Deputy Director, Planning Division *BW*
SUBJECT: Minutes of the Regular Meeting of March 6, 2013
DATE: March 25, 2013

Members Present:

Patrick Greene, Chairman
Albert Young

Staff Present:

Peter Gardner, Planner I

Others Present:

Jesus & Martha Luziana, Applicants

These minutes for the BA2 meeting held on March 6, 2013, are complete only when accompanied by the memoranda for said meeting dated March 6, 2013.

Call to Order / Roll Call:

Chairman Patrick Greene called the meeting to order at 6:05 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. Greene also noted that a third member, Mr. Andy Salaiz, had been appointed to the Board, but was unable to be present. Mr. Young made a motion to approve the minutes of the January 2, 2013 regular meeting. Chairman Greene seconded the motion, and the vote was 2-0 to approve the minutes of the January 2, 2013 meeting.

Chairman Greene explained the procedures of the meeting to those present.

NEW BUSINESS

Docket BA2-13-01 (Luziana): The Applicants, Jesus and Martha Luziana, request a Variance from Section 704.03 of the Cochise County Zoning Regulations which requires that structures in a TR-9 Zoning District be set back no less than 10-feet from all property lines. The Applicant intends to legitimize and complete an addition approximately 4-feet from the east property line. The subject parcel is located at 430 West Pirtle Ave. in Pirtleville.

Chairman Greene called for the Planning Director's presentation on the Docket. Peter Gardner, Planner I, delivered the report on behalf of the Planning Director, illustrating the facts of the case, as well as the staff recommendation, 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 the Applicant was not yet present, Mr. Gardner gave Staff's recommendation of approval.

Chairman Greene noted that the Applicant was not present and prepared to open Board discussion. At this point the Applicants arrived. Due to the Applicant's health and mobility issues the meeting was moved into the Board of Supervisors' Lobby. Mr. Greene explained the process to the Applicant and then declared the Public Hearing open, and called for the Applicant's statement. The Applicant provided a memo from the owner of the adjoining parcel most impacted by the proposed Variance supporting the request, and Chairman Greene read the memo into the record.

Chairman Greene then closed the Public Hearing and called for Board discussion. There was no further discussion and Chairman Greene noted Staff's recommendation of approval. Chairman Greene noted that the only reason to oppose the request was the failure of the Applicant to obtain a permit prior to construction.

Mr. Young made a motion to approve the Variance for the 100-square-foot addition, per the Applicant's submitted diagram. Chairman Greene seconded and the motion passed 2 – 0. Mr. Greene did note to the Applicant that permits are required and any future projects should be permitted prior to construction.

Planning Director's Report:

Mr. Gardner noted incorrectly that there were no dockets for the April meeting.

Mr. Young made a motion to adjourn. Chairman Greene seconded, and the meeting was adjourned at 6:25 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 *BW*
SUBJECT: Docket BA2-13-02 (Yesca)
DATE: March 19, 2013, for the April 3, 2013 Meeting

REQUEST FOR A VARIANCE

The Applicant requests a Variance from Section 1004.03 of the Cochise County Zoning Regulations which requires that structures in an MR-1 Zoning District (Multiple-Household Residential; one dwelling per 3,600 sq.-ft.) be set back no less than 5-ft. from all property lines. The Applicant intends to legitimize and complete an additional single-family residence approximately 4-ft. from the south property line. The subject parcel (102-57-338) is located at 3790 South Giesler Avenue in Naco. The Applicants are Maria Yesca and David Rogers.

I. DESCRIPTION OF SUBJECT PARCEL AND SURROUNDING USES

Parcel Size: 0.30 acres
Growth Area: Growth Category C
Comprehensive Plan Designation: High-Density Residential (HDR)
Area Plan: Naco Area Plan
Existing Uses: Single-family residence
Proposed Uses: Same, with an additional single-family residence.

Surrounding Zoning and Uses

Relation to Subject Parcel	Zoning District	Use of Property
North	TR-9	W. Valenzuela St./single-family residential
South	TR-9	single-family residential
East	TR-9	S. Giesler Ave./Naco Elementary School
West	GB	alley/single-family residential

II. PARCEL HISTORY

- 1942 – Single-family home built.
- November 2012 – Violation issued for construction of an additional single-family residence without a permit.

III. PROJECT DESCRIPTION

This is a request for a Variance to allow the permitting and completion of an approximately 650-sq.-ft. single-family residence being built approximately 4-ft. from the south property line, and in the approximate location of a previously existing garage. The request comes as the result of a Violation for building without a permit, and if the Variance is granted, the Applicant will then apply for a residential permit to rectify the Violation.

The property was zoned TR-9 (one dwelling per 9,000 sq.-ft.) until very recently. The Applicant applied for a rezoning to MR-1 (one dwelling per 3,600 sq.-ft.) to reduce the property's minimum lot size in order to accommodate the second dwelling. On March 13, 2014 the Planning and Zoning Commission voted 7-1 to recommend approval of the rezoning request, and on March 26, the Board of Supervisors voted unanimously to approve the rezoning request.



Above: View of subject single-family dwelling from the north.

IV. ANALYSIS OF IMPACTS

The proposed location of the additional single-family residence will not, in staff's estimation, create any significant on-site or off-site impacts. The Naco community is densely populated with single-family and manufactured homes with a multitude of accessory structures. Naco Elementary School and the Naco Post Office are also nearby. The location of the additional single-family residence would not substantially impact the character of the neighborhood, especially given that an accessory structure of similar size previously existed at this location on the parcel. Also, as shown in the photo below, the residence immediately to the south shows a similar setback to the one requested by the Applicant. Notably there is a seven-foot high block wall separating the parcels.

The property is also located in an area designated as High-Density Residential under the County's Comprehensive Plan and the *Naco Area Plan*, and as noted, was granted a rezoning from TR-9 to MR-1 in light of this. The Naco Plan encourages residential infill of a similar density compatible with the surrounding neighborhood; this project achieves this goal.



Above: View of additional single-family residence and existing single-family residence on the adjoining parcel.

V. PUBLIC COMMENT

The Department mailed notices to neighboring property owners within 300-ft. of the subject parcel. Staff posted a legal notice on the property on March 19, 2013 and published a legal notice in the *Bisbee Observer* on March 14, 2013. To date, the Department has received three letters of support from neighboring property owners.

VI. SUMMARY AND CONCLUSION

Factors in Favor of Allowing the Variance

1. Allowing the additional single-family residence would not generate any substantial on-site or off-site impacts;
2. This project meets the goals of the High-Density Residential designation under the Comprehensive Plan and the *Naco Area Plan* by using infill for new development;
3. The Naco area has a proliferation of similar legal, non-conforming structures;

4. On March 26, 2013, the Board of Supervisors granted a rezoning request from TR-9 to MR-1 to facilitate completion of the additional single-family residence; and
5. Staff received three statements of support from neighboring property owners.

Factors Against Allowing the Variance

1. This request is the result of a Violation for building without a permit; and
2. A purpose of Section 1004.03 of the Zoning Regulations is to protect residential neighborhoods from crowded appearances.

VII. RECOMMENDATION

Based on the Factors in Favor of Approval as Finding of Facts, staff recommends **Approval** of the Variance request.

Sample Motion: *Mr. Chair, I move to approve Docket BA2-13-02, 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 Comments



COCHISE COUNTY COMMUNITY DEVELOPMENT

"Public Programs...Personal Service"

APPLICATION FOR VARIANCE

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

TO THE HONORABLE BOARD OF ADJUSTMENT, DISTRICT 2

I (we), the undersigned, hereby petition the Cochise County Board of Adjustment, District 2

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.)

1. Parcel Number: 102-57-338
2. Address of parcel: 3790 Grester Ave, Naco, AZ 85620

3. Area of Parcel (to nearest tenth of an acre): 0.30
4. Zoning District designation of Parcel: Pending rezone to MR-1
5. Describe existing uses of the parcel and the size and location of existing structures and buildings on it.
Existing Single Family Residence, Existing Storage and carport, Existing garage to be converted to Single Family Residence

6. Describe all proposed uses or structures, which are to be placed on the property.
Garage to be converted to dwelling.

7. State the specific nature of the variance or variances sought.
The rezone to facilitate the second dwelling will render the south property ~~to~~ setbacks non-conforming. A variance is requested.

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.

Re-using an existing structure, hence relocation is impossible. The change of use to a home cannot be condoned with the rezone.

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.

Because the ^{original} structure is 60+ years old. The setbacks will not change from the previous situation.

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

PROPERTY OWNER

MAIL ADDRESS

María Yescas

PO Box 287 Naco, AZ 85620

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



1598 W. MULEDEE ST
BISBEE AZ

3/22/13

APPLICANT'S PHONE NUMBER 520 895 8892

APPLICANT'S EMAIL ADDRESS _____

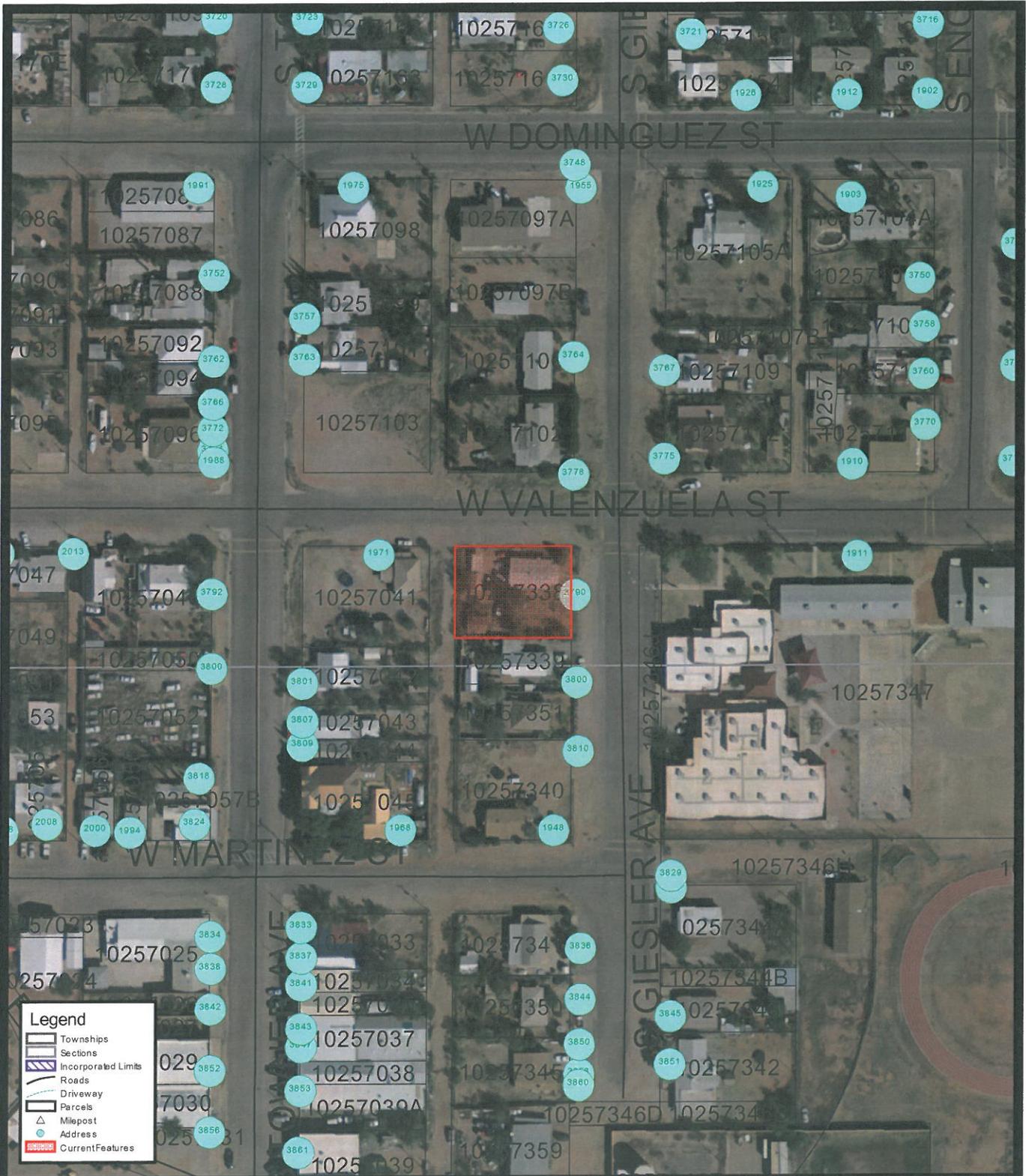
Note: Each application shall be accompanied by an accurate site plan showing the parcel of land and the existing and proposed structures and buildings on it, and shall be accompanied by a check in the amount of three hundred dollars (\$300) payable to the Cochise County Treasurer. Return to the Cochise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



Legend

- Townships
- Sections
- Incorporated Limits
- Roads
- Driveway
- Parcels
- Milepost
- Address
- Current Features



BA2-13-02 (Yescas)
102-57-338

This map is a product of the Cochise County GIS



Variance Request: Docket BA2-13-02 (Yescas)

YES, I SUPPORT THIS REQUEST

Please state your reasons:

No Objections - Good Neighbor

NO, I DO NOT SUPPORT THIS REQUEST:

Please state your reasons:

(Attach additional sheets, if necessary)

PRINT NAME(S):

WALTER C. Roediger JR.

SIGNATURE(S):

Walter C. Roediger JR.

YOUR TAX PARCEL NUMBER: 10257344 A (the eight-digit identification number found on the tax statement from the Assessor's Office)

U.S. P.O. Building next door (North)

Your comments will be made available to the Board of Adjustment District 2 on April 3, 2013. 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 Friday, March 22.

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

Variance Request: Docket BA2-13-02 (Yescas)

YES, I SUPPORT THIS REQUEST

Please state your reasons:

GIVES OWNER'S INITIATIVE TO KEEP
PROPERTY WEED FREE & BETTER LOOKING
FOR COMMUNITY

NO, I DO NOT SUPPORT THIS REQUEST:

Please state your reasons:

(Attach additional sheets, if necessary)

PRINT NAME(S):

ERNEST MR. YECAS

SIGNATURE(S):



YOUR TAX PARCEL NUMBER: 10257037 (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 2 on April 3, 2013. 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 Friday, March 22.

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Cochise County Planning Department
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Bisbee, AZ 85603

Variance Request: Docket BA2-13-02 (Yescas)

YES, I SUPPORT THIS REQUEST

Please state your reasons:

It causes no harm. It may provide more low income housing near the school, it is not a very high or a very large house. It is near an alley access so there is no problem getting fire protection or ambulance to it.

NO, I DO NOT SUPPORT THIS REQUEST:

Please state your reasons:

(Attach additional sheets, if necessary)

PRINT NAME(S):

TERRY CHAMBERS

SIGNATURE(S):

Terry Chambers

YOUR TAX PARCEL NUMBER:

3792 S. Tower ave.
NACD

(the eight-digit identification number found on the tax statement

from the Assessor's Office)

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COCHISE COUNTY

MAR 22 2013

PLANNING