

EXPANDED AGENDA
Board of Adjustment, District 3
Tuesday, July 9, 2013
J.P. Courtroom, County Service Center
126 W. 5th Street
Benson, Arizona

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 BA3-13-02 (Cattle Rest): The Applicant proposes to add an RV park to an existing bar and requests Variances from the following Sections of the Cochise County Zoning Regulations:

1804.07 (replace paving in driveway and parking areas with gravel); 1812.06 (screening requirement); 1812.08/1804.05 (required number of parking spaces); and 1812.10 (curbs, gutters, and sidewalks).

The subject parcel, 203-12-007, is located at 933 S. Haskell Ave., Willcox, AZ.

Applicant: John L. Permenter.

- 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)

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 *PM*
For: Beverly Wilson, Deputy Director Planning Division *BW*
SUBJECT: Minutes of the Regular Meeting of January 8, 2013
DATE: January 16, 2013

Members Present:

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

Staff Present:

Keith Dennis, Planner II
Peter Gardner, Planner I

Others Present:

James Gyurkovic & Sharon Marchenka - Appellants
Fred Kendall - Public

These minutes for the BA3 meeting held on January 8, 2013 are complete only when accompanied by the memoranda for said meeting dated January 8, 2013.

Call to Order / Roll Call:

Chairman Paul Brick called the meeting to order at 6:37 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.

Vice Chairman Wales made a motion to approve the minutes of the December 11, 2012 regular meeting. Ms. Barnard seconded the motion, and the vote was 3-0 to approve the minutes of the December 11, 2012 meeting.

NEW BUSINESS

Docket BA3-13-01 (Gyurkovic): Chairman Brick introduced the Docket which is an appeal of the Cochise County Zoning Regulations. Appellant, James Gyurkovic, wishes to reside in a park model on the subject parcel which is zoned MH-72. Article 2 of the County Zoning Regulations classifies park models as RVs, but RVs are not allowed as principal permitted uses in the MH-72 Zoning District. The Appellant disputes the County's determination that the proposed dwelling is an RV; he maintains that it is a manufactured home, which is allowed as principal a permitted use in the MH-72 Zoning District. He is appealing the County Zoning Inspector's determination that the unit is an RV and cannot be used as a dwelling on the subject parcel.

The subject parcel (Parcel # 208-69-034) is located at 2278 North Sunset Avenue in Benson, AZ.

Chairman Brick called for the Planning Director's presentation of the Docket. Keith Dennis delivered the report, 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 Appeal requested under consideration. Mr. Dennis explained the differences between Park Models and Manufactured Homes and the applicable standards. He informed the Board that the Appellant had provided Staff with 13 letters of support after the packet had been sent out. Mr. Dennis emphasized that the Appellant had made extraordinary efforts to give notice to surrounding property owners. He concluded by offering factors in favor and against approval.

Chairman Brick invited questions for Staff. Chairman Brick requested clarification of the unit's size. Vice-Chairman Wales asked if the proposed Arizona Room would be considered towards the size of the unit. After discussion it was established that the square footage of the addition would not impact the size of the unit or its legal status. Mr. Wales asked for clarification of the letter submitted by the inspector who visited the unit in Tucson. The letter was deemed confusing and the issue was not settled. Mr. Wales asked if the unit was tagged as a park model or as a manufactured home. Mr. Dennis explained that the unit was tagged as a park model. Mr. Wales also asked if the HUD standards were in effect when this unit was built in 1986. Mr. Gardner clarified that they were.

Chairman Brick declared the Public Hearing open, and then called for the Appellant's statement. The Appellant spoke to explain the reasons behind the request. Mr. Gyurkovic explained his efforts with a Realtor to establish that the property in question was appropriate for their home. He explained the background of his experience with Planning and Zoning and applying for the permit. The Appellant stated that he felt that everyone knew the difference between an RV and a Manufactured home and explained that he had not heard the term Park Model prior to applying for the permit. He professed ignorance of HUD standards and their implications and presented a tax form from Pima County pertaining to the unit as well as a receipt from the company who moved the unit and the Highway permit required to move the unit. Mr. Gyurkovic disputed the letter from the inspector and implied that the inspector did not visit the home. He explained his reasons for moving the unit despite the direction from Staff not to do so. The Appellant went on to dispute that his home met the definition of a park model and claimed that Staff was not able to provide him with guidance regarding his home. He stated that several Counties are arguing with the State over Park Models and claimed that Pima, Pinal, and Maricopa Counties do not regulate park models in any way. Mr. Wales asked about the current and proposed state of the ground surface, which the Applicant clarified. Mr. Wales asked about development on adjoining parcels and screening, and Mr. Gardner expressed Staff's opinion that screening would be more intrusive than not. Mr. Gyurkovic stated that he was told by Staff that they would visit the property but claimed that no one had ever visited the site to evaluate the project. He presented photos of several other homes in the neighborhood for comparison. Mrs. Marchenka reiterated that they felt that their home was obviously not a park model. Mr. Gyurkovic then asked for questions from the Board. Ms. Barnard asked for clarification that the Appellant was under the belief that there would be no issues installing their home on this parcel, which the Appellant provided. The Board took time to examine the photos provided of the neighborhood. Mr. Wales asked Mr. Dennis for clarification of the zoning, which Mr. Dennis provided, explaining the concept behind subdivisions such as Willow Lakes. RV parks versus MR and MH zonings were discussed and

clarified. Ms. Barnard asked about temperature ratings on park models and discussed the work necessary on the home to protect it against the elements in Willow Lakes. Mr. Wales discussed Manufactured Homes and the different standards and why some units are built to one set versus the other set of standards. He then asked about the pre-1976 homes and what standards they were built to. Mr. Dennis and Mr. Gardner clarified and explained how pre-1976 homes may be installed in the County. Mr. Brick commented on tax issues with various units and asked about how moveable the Appellant's unit is. Mr. Wales expressed a belief that many homes in Cochise County are only tracked through MVD rather than the County. Mr. Brick asked about the Appellant's plans for a foundation, which Mr. Gyurkovic elaborated on. Mr. Brick again compared HUD and ANSI standards. Mr. Wales expressed a belief that park models should be further broken down and some units should be considered manufactured homes and other should be considered RVs. Mr. Dennis elaborated on this point. There was more discussion and doubt about the inspector's report and Mr. Wales stated that he felt the photos were sufficient to show the size of the unit. Mr. Wales also asked for further information about the park model definition which Staff provided.

Fred Kendall spoke about the project and gave support for the unit. He berated staff for not condemning several surrounding properties and for bothering the Appellant. He also stated that the unit was obviously not an RV and expressed concern that the County deemed it such. He told staff to leave the Appellant alone and that the inspector was lying or mistaken and that Staff was obviously wrong in their interpretation. The Appellant noted that he researched the unit's manufacturer and found that the current maker produces RVs. He stated that he offered to rehab the unit to Staff's liking and was declined. Ms. Barnard offered a personal story regarding a park model. Mr. Wales expressed concern about making a decision without technical knowledge of the units. He then addressed concerns regarding property values and safety but felt that they were not issues with this unit. He also expressed concern that the Appellant had defied Staff's direction, but felt that the Appellant had reasonably explained such defiance. Mr. Brick noted that he felt that the unit would improve the area and agreed with Mr. Kendall's opinion of the neighborhood. Mr. Kendall again berated Staff for the condition of several homes in the neighborhood and Staff's lack of action on such and reiterated that he felt that Staff should drop their opposition to the Appellant. He then spoke to concerns about drugs in the neighborhood and further berated staff. Mr. Wales asked if the definitions of park models was addressed in the updated zoning regulations. Ms. Barnard noted that if precedent was being set by this case then more caution was warranted. Mr. Dennis explained that Boards of Adjustment actions do not set precedent and that each case is viewed on its own. He also explained that the remedy for placing park models in general was a change to the zoning regulations. Mr. Brick shared personal experiences with park models and expressed a feeling that the County should pursue allowing park models as a lower cost housing option. Mr. Wales concurred.

Chairman Brick then closed the Public Hearing and called for Staff Summation and Recommendation.

Chairman Brick called for a motion. Mr. Wales summed up the facts and the definition of a park model. Vice Chairman Wales made a motion to grant this application for the Variances citing the factors in favor. Ms. Barnard noted that the Board served to protect the public from the government and seconded. Mr. Wales noted that precedent was not being set and stated that he felt this unit was not a park model. There was no further discussion.

The vote was 3-0 to approve the motion. Mr. Dennis noted that the Appellant would be refunded the application fee.

Planning Director's Report:

Mr. Dennis offered a brief Director's Report, informing the Board that there are no BA3 Dockets for next month. The Zoning Regulation changes were discussed as well. The change to kennels and animal husbandry was discussed and Mr. Dennis gave an update on the previous related appeal heard by the Board. Mr. Dennis also explained how SB1598 has eliminated interpretations.

Ms. Barnard made a motion to adjourn. Mr. Wales seconded, and the meeting was adjourned at 8:00 p.m.



COCHISE COUNTY COMMUNITY DEVELOPMENT

"Public Programs...Personal Service"

MEMORANDUM

TO: Cochise County Board of Adjustment, District 3
FROM: Peter Gardner, Planner I *ppg*
FOR: Beverly Wilson, Deputy Director, Planning Division *bm*
SUBJECT: Docket BA3-13-02 (Cattle Rest)
DATE: June 26, 2013 for the July 9, 2013 Meeting

APPLICATION FOR VARIANCES

Docket BA3-13-02 (Cattle Rest): The Applicant seeks to add a 14 space RV Park to an existing bar, and is requesting the following Variances to Site Development Standards, per the Cochise County Zoning Regulations: Sections 1804.07 (replace paving in driveway and parking areas with gravel); 1812.06 (screening requirement); 1812.08/1804.05 (required number of parking spaces); and 1812.10 (curbs, gutters, and sidewalks). The subject parcel (Parcel # 203-12-007) is located at 933 South Haskell Rd. in Willcox.

I. DESCRIPTION OF SUBJECT PARCEL AND SURROUNDING USES

Parcel Size: 211,269-sq. ft. (4.85-acres)
Zoning: GB (General Business)
Growth Area: Category B (Community Growth Area)
Plan Designation: Enterprise
Area Plan: None
Existing Uses: Bar and single-family residence
Proposed Uses: Same, with 14-space RV park

Surrounding Zoning and Uses

Relation to Subject Parcel	Zoning District	Use of Property
North	GB	Vacant Land
South	GB/Interstate Highway Business Loop	Vacant Land/Interstate 10 Loop (S. Haskell Road)
East	GB	Single Family Residential
West	GB	Vacant Land

II. PARCEL HISTORY

The bar and single-family residence were both constructed in 1963, prior to the adoption of the zoning regulations in 1975. In 2012 a permit to install a grease trap in the bar was issued. In 2013 several permits to establish the RV Park in question were submitted to the Department.

III. PROJECT DESCRIPTION

The Applicant proposes to establish a 14-space RV park adjacent to the existing bar. The Applicant has requested Variances from site development standards requiring a six-foot high solid wall or fence around the site, paved driveways, curbs, gutters, and sidewalks, and developed landscaping. The Applicant is also requesting a Variance from the required number of parking spaces.



Above: Cattle Rest Bar

IV. ANALYSIS OF IMPACTS

The project site is within an area designated as Enterprise and Growth Category B on the Comprehensive Plan map. Category B areas provide a transition between the traditional rural areas of the County and the more urbanized areas. Enterprise areas show an established pattern of commercial and/or industrial growth. While the surrounding area does serve as the transition between the rural and urbanized portions of the Willcox community, the area remains largely undeveloped with expansive open spaces.

The proposed use fits with the general character of the surrounding area, which is sparsely developed. The requested Variances would not detract from the character of the area (but would rather blend), nor would they negatively impact surrounding properties. The site development standards in the Category B Areas were written with a much more urbanized character in mind. The developed landscaping, paving, and screening required in the Category B Areas would stand out in this case whereas granting the requested Variances would help the proposed RV Park to

better fit the undeveloped, rural character of the neighborhood. The nearest home to the project site is approximately 200-yards to the northeast of the subject property, and while visible from the project site, Staff supports the Applicant's contention that the required screening would be more intrusive than the small RV Park, and would detract from the visual appeal of the site for guests.

The Applicant is proposing to provide designated parking spaces only for the two 40-foot RV spaces but not for the 60-foot spaces. While Section 1812.08 requires one parking space per unit, the Applicant contends that the 60-foot spaces would be utilized by RVs that either are towed by a passenger vehicle, or are towing a passenger vehicle, and therefore the 60-foot space includes parking for the associated passenger vehicle. The Applicant also notes that there is ample available parking on site adjacent to the existing bar. Staff concurs with the Applicant's assessment of the parking situation.



Above: Looking northeast towards the nearest residence.

V. PUBLIC COMMENT

The Department mailed notices to neighboring property owners within 300-feet. Staff posted the property on June 18 and published a legal notice in the *Bisbee Observer* on June 20. To date, the Department has received no response to the Variance requests.

VI. Summary and Conclusion

Factors in Favor of Approving the Variances

1. Approving the Variances would not substantially impact neighboring properties and would help the project fit with the existing character of the neighborhood; and
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.



Above: View of Existing structures and area to be developed from back of property.

Factor Against Approving the Variances

None Apparent

VII. RECOMMENDATIONS

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

Sample Motion: Mr. Chair, I move to approve Docket BA3-13-02, granting the Variances as requested by the Applicant, the Factors in Favor of approval constituting the Findings of Fact.

VIII. ATTACHMENTS

Variance Application
Location Map
Site Plan



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 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.)

1. Parcel Number: 203-12-007-8
2. Address of parcel: 933 S. HASKELL AVE, WILLIAMS, AZ 85643
3. Area of Parcel (to nearest tenth of an acre): 4.8
4. Zoning District designation of Parcel: GB
5. Describe existing uses of the parcel and the size and location of existing structures and buildings on it.
BAR 77' X 115'
6. Describe all proposed uses or structures, which are to be placed on the property.
R.V. CAMPING SPACES
7. State the specific nature of the variance or variances sought.
SEE "VARIANCES REQUESTED/RATIONALE" ON ATTACHED SITE PLAN.

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.

SEE "VARIANCES REQUESTED / RATIONALE" ON
ATTACHED SITE PLAN.

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.

ADJACENT PROPERTIES ARE LARGE AND
UNDEVELOPED.

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

PROPERTY OWNER

MAIL ADDRESS

JOHN L. PERMENTER

4207 S. PERMENTER RD. WILLIAMS, AZ 85643

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

John L Permenter 4207 S. PERMENTER RD 05.14.13
Willcox, AZ 85643

APPLICANT'S PHONE NUMBER 602 717.9215

APPLICANT'S EMAIL ADDRESS lpermenter@aol.com.

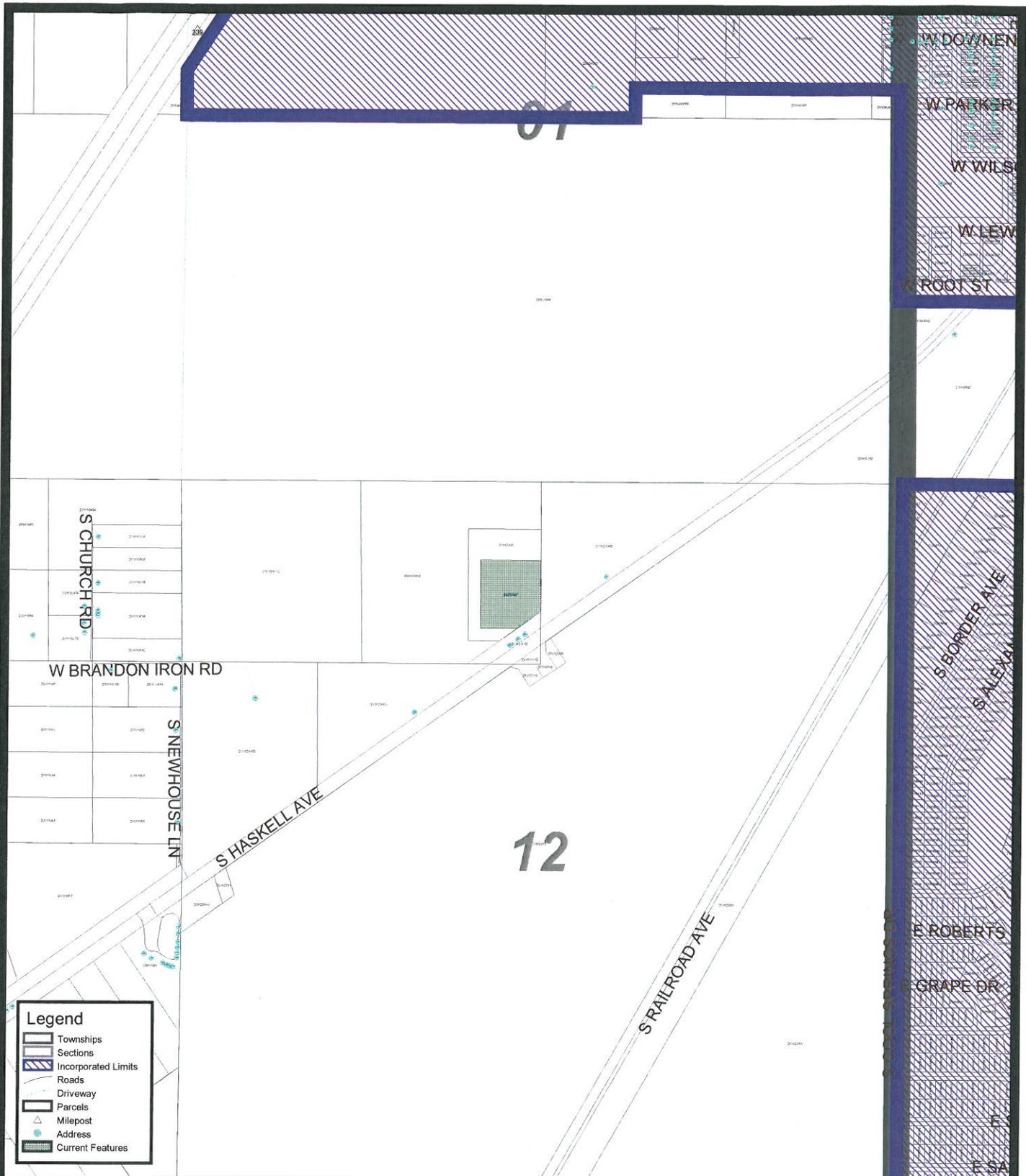
Note: Each application shall be accompanied by an accurate site plan showing the parcel of land and the existing and proposed structures and buildings on it, and shall be accompanied by a check in the amount of three hundred dollars (\$300) payable to the Cochise County Treasurer. Return to the Cochise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



BA3-13-02 (Cattle Rest) Location Map

This map is a product of the Cochise County GIS





Item	Description	Quantity	Unit	Notes
1	Asphalt	100	Sq. Yd.	
2	Concrete	50	Cu. Yd.	
3	Gravel	200	Sq. Yd.	
4	Rebar	10	Lbs.	
5	Formwork	100	Sq. Ft.	

Project Number	303-12-007
Property Owner	Lee Properties
Site	69-Grand Boulevard
Street	Cathey & (Caterpillar)
Site Area	4.83 acres
Current Use	Cattle Rest Bar & Grill
Project Description	Owner proposed to add 18 RV spaces to the north of the existing structure on an unimproved portion of the site. The project includes site plan, utility plan, and electrical service to the property. The project also includes site plan, utility plan, and electrical service to the property. The project also includes site plan, utility plan, and electrical service to the property.
Site Area	2.78 acres
Site Code	121/0715 SF
Building Code	19C 2003

Symbol	Description
---	Edge of Drive/Driveway
---	Property Line
---	Survey Boundary
---	Utility Lines
---	Water Main
---	Sanitary Sewer
---	Storm Drain
---	Other Utility

Zone	Regulation Section	Regulation Description	Regulation
1812.01 (1812.01)	1812.01 (1812.01)	No parking or storage of vehicles on the street.	Comply
1812.02 (1812.02)	1812.02 (1812.02)	Maximum number of vehicles parked on the street.	Comply
1812.03 (1812.03)	1812.03 (1812.03)	Maximum number of vehicles parked on the street.	Comply
1812.04 (1812.04)	1812.04 (1812.04)	Maximum number of vehicles parked on the street.	Comply
1812.05 (1812.05)	1812.05 (1812.05)	Maximum number of vehicles parked on the street.	Comply

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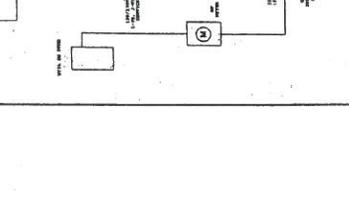
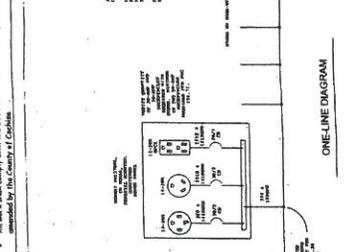
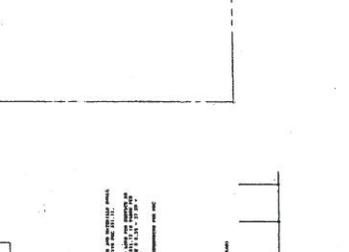
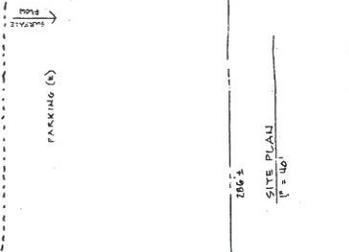
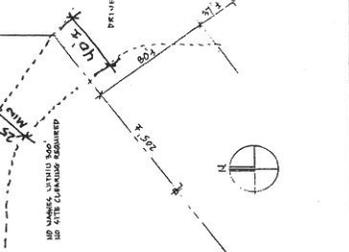
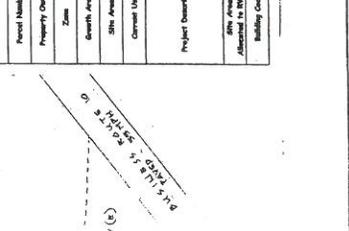
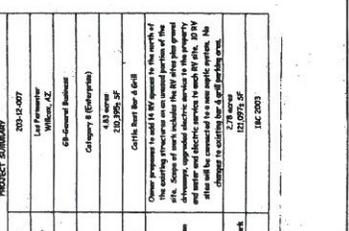
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GENERAL NOTES:
 1. Contractor shall provide all materials and labor for the project.
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