

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

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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 BA2-13-04 (Apson Transportation):** The Applicant is requesting Variances from the following Sections of the Cochise County Zoning Regulations: 1305.05 (Screening requirement); 1303.02 (Setback requirement); 1804.08 (Gravel surface for outdoor storage areas); 1806.02.B (Landscaping requirements). The Applicant intends to store trucks and materials to be shipped on the site.

The subject parcel (407-60-004B) is located on West Demuro Road in Douglas, AZ. It is further described as being situated in Section 35 of Township 23, Range 27 East of the G&SRB&M, in Cochise County, Arizona. The Applicant is Apson Transportation.

- 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 QUESTIONS
- 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  
For: Beverly Wilson, Planning Director  
**SUBJECT:** Minutes of the Regular Meeting of July 3, 2013  
**DATE:** October 28, 2013

**Members Present:**

Patrick Greene, Chairman  
Andy Salaiz

**Staff Present:**

Peter Gardner, Planner I

**Others Present:**

Rick Weisberg, Oasis Water Harvesting - Applicant

*These minutes for the BA2 meeting held on July 3, 2013, are complete only when accompanied by the memoranda for said meeting dated July 3, 2013.*

**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 Mr. Young was absent, establishing that the Board had a quorum and could proceed. Mr. Salaiz made a motion to approve the minutes of the April 3, 2013 regular meeting. Chairman Greene seconded the motion, and the vote was 2-0 to approve the minutes of the April 2013 meeting.

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

**NEW BUSINESS**

**Docket BA2-13-03 (Oasis Water Harvesting):**

The Applicant is requesting Variances from the following Sections of the Cochise County Zoning Regulations: 1203.05 (Screening requirement); 1804.07.C (Paving of driveway, parking and loading areas); 1804.08 (Gravel surface for outdoor storage areas); and 1806.02.B (Landscaping requirements). The Applicant intends to store and advertise rainwater-harvesting cisterns on the site. The subject parcel (107-66-067B) is located at 4433 South Highway 92 in Sierra Vista, AZ.

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 Variances requested under consideration. He concluded by offering factors in favor and against approval.

Chairman Greene noted that the Applicant was present and invited a statement. Mr. Rick Weisberg, owner of Oasis Water Harvesting, spoke to explain his intended use of the property and the Variances requested. He detailed the products to be stored and advertised on site.

Mr. Greene asked about signage. Mr. Gardner explained that all proposed signage met zoning requirements. Mr. Salaiz asked about weed control, and Mr. Weisberg explained his intended mitigation measures.

There was no further discussion and Chairman Greene asked for Staff's recommendation. Mr. Gardner indicated that Staff recommended Approval of all Variance requests.

Mr. Salaiz made a motion to approve the Variances. Mr. Greene seconded and the motion passed 2 – 0.

**Planning Director's Report:**

Mr. Gardner noted that there were no dockets for the August meeting and explained the ongoing effort to update the zoning regulations.

Mr. Salaiz made a motion to adjourn. Chairman Greene seconded, and the meeting was adjourned at 6:18 p.m.



# COCHISE COUNTY COMMUNITY DEVELOPMENT

*"Public Programs...Personal Service"*

## MEMORANDUM

**TO:** Cochise County Board of Adjustment, District 2  
**FROM:** Peter Gardner, Planner I   
**FOR:** Beverly Wilson, Planning Director  
**SUBJECT:** Docket BA2-13-04 (Apson Transportation)  
**DATE:** October 21, 2013 for the November 6, 2013 Meeting

### REQUEST FOR VARIANCES

The Applicant requests Variances from the following Sections of the Cochise County Zoning Regulations: 1305.05 (Screening requirement); 1303.02 (Setback requirement); 1804.08 (Gravel surface for outdoor storage areas); and 1806.02.B (Landscaping requirements). The Applicant intends to store trucks and material on the site. The site is currently zoned Light Industry which permits the current use, Warehousing, Storage, and Distribution. The subject parcel (407-60-004B) is located on West Demuro Drive in Douglas. The Applicant is Apson Transportation.

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

**Parcel Size:** 3.97-acres  
**Zoning District:** Light Industry (LI)  
**Growth Area:** Growth Category B (Community Growth Area)  
**Comprehensive Plan Designation:** Developing (DEV)  
**Area Plan:** None  
**Existing Uses:** Vacant Land  
**Proposed Uses:** Warehousing, Storage, & Distribution of Goods

### Surrounding Zoning and Uses

Relation to Subject Parcel	Zoning District	Use of Property
North	TR-36	Vacant Land
South	County Maintained Road/LI	W Demuro Rd/Warehouse
East	LI	Cochise Industrial Park Subdivision/Manufacturing Facility
West	TR-36	Vacant Land

## **II. PARCEL HISTORY**

- 2009 – Parcel rezoned from TR-36 to LI with a Condition requiring a commercial permit within three years.
- 2012 – Land Clearing Permit issued.
- 2013 – Violation issued for operating a trucking business and outdoor storage without a permit.

## **III. PROJECT DESCRIPTION**

This is a request for four Variances prior to applying for a Commercial Permit to establish a Warehousing, Storage, and Distribution Yard, per Section 1302.20 of the Zoning Regulations. The Applicant is currently operating a shipping company on the property, and the facility is used to store trucks and equipment. There is currently not a permit for this use, and a violation is open and scheduled for hearing on November 21. The Applicant intends to use an office trailer on site for administration.



*Above: View of the office trailer and fencing.*

## **IV. ANALYSIS OF IMPACTS**

### **Screening**

The Applicant is requesting a Variance from Section 1303.05 that requires outdoor storage areas to be screened by a six-foot high solid screen. The Applicant is requesting that the existing six-foot high slatted chain link be permitted. As seen in the photo above, the slats provide limited visual screening.

The Applicant proposes to plant “desert shrubs” along the perimeter of the property inside the fence, with the exception of the south side where the shrubs will be outside the fence. These shrubs, once established, are intended to provide additional screening. It is difficult to determine how long the vegetative barrier would take to reach sufficient size to fully screen the parcel to a height of six-feet. Staff supports the Variance request to allow slatted chain link on the south and east sides of the property that abut other Industrial properties, but does not support the request on the north and west sides that abut Residential properties. A mature vegetative screen would be supported, under the Condition that the initial planting provide substantial screening.

### **Setbacks**

Section 1303.02.B of the Zoning Regulations requires a minimum setback of 80-feet from any property line that abuts a Residential Zoning District. The minimum setback to any property line abutting another Industrial Zoning District is five-feet. The Applicant is requesting a minimum five-foot setback on the north and west property lines to match the south and east setbacks. With the required setbacks, the parcel would have 113,569 square-feet (2.6-acres) of usable area. If the setback request is approved it would increase the usable area of the property to 165,649 (3.8-acres), an increase of 46%. As the adjoining impacted properties are zoned TR-36, which has a minimum setback of 20-feet, the request would decrease the cumulative setback from 100-feet to 25-feet. Neither of the properties in question are currently developed. According to Assessor’s records, the property to the west is owned by Jorge Reyes and Ana Olaya, with the same mailing address as Apsen Transportation. The vacant residential property to the north is under common ownership with another adjoining developed residential parcel and appears to be used as yard and open space for that parcel. Despite the ownership and lack of current occupancy, Staff has a concern with decreasing the setback from 80-feet to five-feet; doing so would permit a more intense, industrial use closer to the subject properties than a residential use would allow. Based on the nature of the use, Staff would support a reduction of the setback from 80-feet to 20-feet, which would mirror the setback on the residential parcels and maintain a cumulative setback of 40-feet.

### **Landscaping**

The landscaping requirement in Section 1806.02.B is twofold. The regulations require a minimum of five percent of the developed area of the site be landscaped, and a minimum five-foot wide strip along the abutting street be landscaped. Landscaping serves multiple purposes, including dust, glare, and erosion control, storm water detention, and moderation of climate and noise, as well as the aesthetic improvement of a property. The Applicant is requesting to move the five-foot wide strip of landscaping inside the fence and to decrease the minimum landscaped area to four percent. Staff is unsure how the Applicant is reaching the four percent figure from the landscaping shown on the proposed site plan. While a barrier of mature shrubbery around the perimeter of the property would meet several of the purposes above, it would not aid storm water detention or climate moderation. Staff does not support the request for a reduction from five percent to four percent of the developed area, and at the commercial permit phase a more detailed landscape plan would be required as the current site plan does not reflect even the proposed four percent coverage.

As the Applicant has already constructed a fence on the property line on all sides of the site, Staff would support the relocation of the five-foot landscaped strip to inside the fence line.

### **Surfacing**

The Applicant is also requesting a Variance from Section 1804.08, which requires that any areas used for outdoor storage of materials be maintained with a dust-free gravel surface or superior. While the crushed limestone that the Applicant is requesting to use is not gravel in the technical sense, it is being used in a similar role. While limestone is a durable surface, it is not dust-free and can create substantial mud when wet. The limestone chips are therefore inferior to gravel and do not meet all of the requirements. As maintaining a dust free surface is the principal rationale for the gravel requirement, Staff does not support this request.

The subject parcel is located in an area designated *Developing* by the Comprehensive Plan. These areas consist of areas with scattered mixed uses that will accommodate future build-out. While the area is currently moderately developed and the requested Variances may seem appropriate for current conditions, the area is likely to continue to develop and Staff believes that granting the Variances as requested will be detrimental to the area in the long-term by impacting the usability of surrounding parcels.



*Above: West view of existing terrain on site with the residence to the west visible in the background.*

### **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 October 15, 2013 and published a legal notice in the *Bisbee Observer* on October 17, 2013. To date, the Department has not received comment from neighboring property owners.



*Above: West view of existing terrain on site with the residence to the west visible in the background.*

## **VI. SUMMARY AND CONCLUSION**

### **Factors in Favor of Allowing the Variances**

1. County government has been engaged in an ongoing effort to make government operations, administration of Zoning and other regulations, and permitting requirements more “business friendly.” Allowing the site to be used as-is would reinforce this effort; and
2. The project is one deemed appropriate for the LI Zoning District by complying with the overall purpose of the LI District.

### **Factors Against Allowing the Variances**

1. The site is currently in violation for operating without obtaining a permit and the current non-conformances on site are due to the Applicant proceeding with construction and operation without a permit;

2. The requested screening does not meet the intent of the screening requirement and exposes residential properties to visual impacts;
3. The requested setback reduction would permit an industrial use to be closer to the adjacent residential properties than the setbacks permitted for a residential use;
4. The landscaping proposed on the concept plan does not meet the intent of the landscaping requirements for storm water retention or climate mitigation; and
5. Without further mitigation measures the proposed chipped limestone surface does not provide the required dust free surface for outdoor storage.

## **VII. RECOMMENDATION**

Based on the Factors For and Against Approval, and the analysis, Staff recommends **Approval** of the following Variances:

1. Allowing existing partial screening for the south and east sides of the property only;
2. A 20-foot minimum setback on the north and west sides of the property; and
3. Relocating the five-foot strip of landscaping along the roadway to the inside of the fence line.

Based on the Factors Against Approval, staff recommends **Denial** of the following Variances:

1. Allowing existing partial screening for the north and west sides of the property;
2. Reducing the landscaping requirement from five percent to four percent; and
3. Permitting chipped limestone to be used in place of two-inches of gravel in outdoor storage areas.

Sample Motion: *Mr. Chair, I move to approve Docket BA2-13-04, granting those Variances recommended by Staff, the Factors in Favor of Approval constituting the Findings of Fact.*

## **VIII. ATTACHMENTS**

- A. Variance Application
- B. Location Map
- C. 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 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: 407-60-004B
2. Address of parcel: N/A
3. Area of Parcel (to nearest tenth of an acre): 3.99 Acres
4. Zoning District designation of Parcel: Light Industry
5. Describe existing uses of the parcel and the size and location of existing structures and buildings on it.  
current use is storage of equipment & Trailers see attach Map.

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

Semi-Trucks, storage material, loaded semi-trailers, Office Trailer

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

Reduce Screening coverage to 68% to 70% of Fence. Permission to use Limestone chips as cover surface only in storage area. - setbacks from N and W property lines to 5'

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.

Contacted several fencing companies to purchase screening fence, all sell slats with chain link as indicate on plan; Recently trash bin in the area was approved with slats on the chain link gates. Permit to use Limestone chips vs gravel in storage area.

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.

Granting this variance will not impact the surrounding residential properties and unscreen storage of Semi-Trucks in Light Industry area. There will be more screening with the desert shrubs as they grow. Limestone chips will control the dust problem as gravel does. Cochise County Highway Dept has used limestone chips on their road to

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

PROPERTY OWNER

MAIL ADDRESS

ARSON

P.O. Box 3942

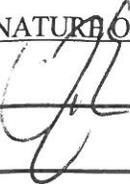
Douglas AZ 85608

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

 4502 N. Hwy 191 Douglas AZ 85607 9/25/13

APPLICANT'S PHONE NUMBER 520-732-4996

APPLICANT'S EMAIL ADDRESS apsontrans@hotmail.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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N HIGHWAY 191

W FL...

W DENHAM RD

ROCHIN RD

N PIONEER PL

N RUSTLER PL

W DEMURO DR

W LORENZA PKWY

N EUGENE AVE

BENTON DR

N VALENZUELA RD

N MYRA AVE

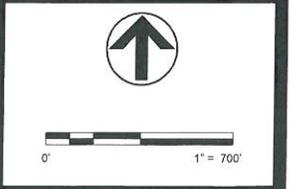
W ROOSTER DR

35



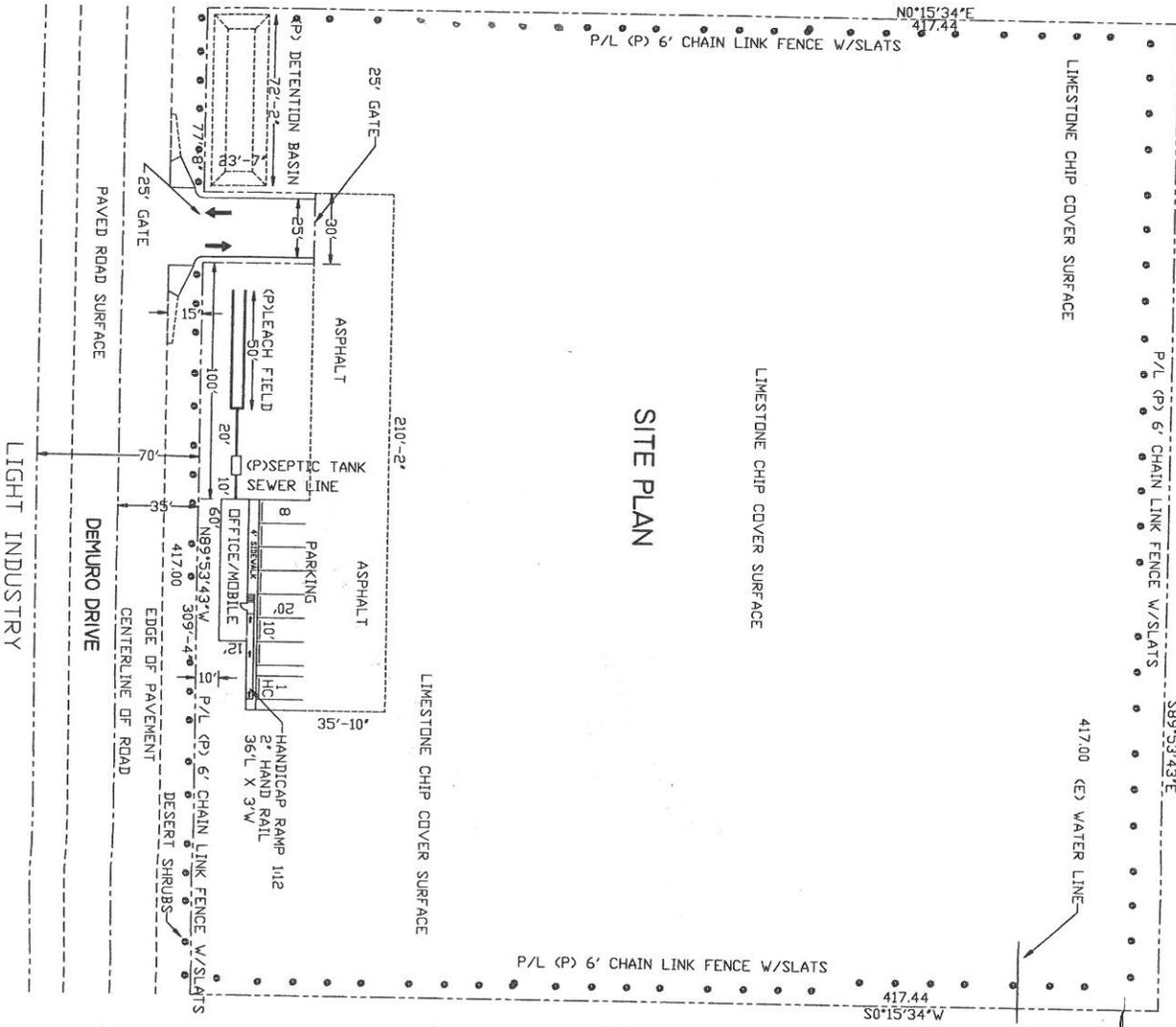
12-13-04 (Apson Transportatic  
Loaction Map  
407-60-004B

This map is a product of the  
Cochise County GIS



RESIDENTIAL

RESIDENTIAL



SITE PLAN

LIGHT INDUSTRY

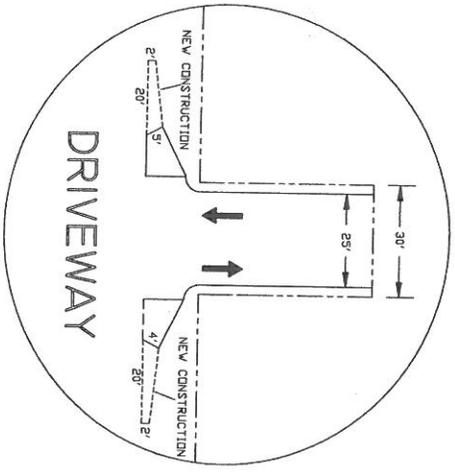


NORTH

THERE ARE NO WASHES WITHIN 300'  
OF THIS PROPOSED PROJECT  
SCALE: 1"=50'

PARCEL # \_\_\_\_\_  
NAME: MR. JORGE REYES  
PHONE: 732-4996

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DRIVEWAY