

EXPANDED AGENDA
Board of Adjustment, District 2
December 4, 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 BA2-13-05 (Kiesling): The Applicant is requesting a Variance from Section 704.03 of the Cochise County Zoning Regulations requiring all structures in a TR-9 Zoning District to be set back a minimum of 10-feet from all property lines. The Applicant intends to construct a shade structure three-feet from the west property line. The subject parcel (102-57-286) is located at 3572 S. Towner 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 John and Dorothy Kiesling.

- 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)

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 November 6, 2013

DATE: November 21, 2013

Members Present:

Patrick Greene, Chairman
Albert Young, Vice-Chair
Andy Salaiz

Staff Present:

Peter Gardner, Planner I

Others Present:

Jorge Reyes, Apson Transportation – Applicant
Frank Ambriz

These minutes for the BA2 meeting held on November 6, 2013, are complete only when accompanied by the memoranda for said meeting dated November 6, 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 all three Board members were present, establishing that the Board had a quorum and could proceed. Mr. Young made a motion to approve the minutes of the July 3, 2013 regular meeting. Mr. Salaiz seconded the motion, and the vote was 2-0 to approve the minutes of the July 2013 meeting, with Mr. Young abstaining.

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

NEW BUSINESS

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); and 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.

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. Mr. Gardner also referenced documents submitted by a member of the public for the Board's consideration. (Attachment A)

Chairman Greene noted that the Applicant was present and invited a statement. Mr. Frank Ambriz of Douglas spoke on behalf of the Applicant. Mr. Ambriz explained the nature of the project and the Variances requested. He noted that the Applicant owned one of the adjacent residential properties, and claimed that the other abutting residential property was being used for a commercial use. He also discussed the setbacks, claiming that setbacks could be zero-feet on several sides, and discussed the proposed landscaping and how the Applicant had rounded up his estimates of area ~~up~~. Mr. Ambriz provided examples of the proposed limestone chips as well as the gravel required by the zoning regulations and explained the rationale for limestone. He also discussed further location of the landscaping. Mr. Ambriz also submitted photos of the site, as well as photos of a similar site also operating without a permit, using them as a justification for the Variances. (Attachment B)

Mr. Jorge Reyes, part owner of Apson Transportation, also added that he felt that his site was better than other similar sites in the area. He noted that there were trucks parked "all over Douglas," and that his site was better than alternatives. He added that he liked people to be able to see into his property so that they would know that he was not doing anything illegal.

Mr. Ambriz presented photos (Attachment B) that he claimed showed that the neighbor in opposition was operating a similar business, and Mr. Reyes expounded on the claim. Mr. Ambriz also proposed adding mesh shade cloth to the fence screening, and showed an example of the existing slats and an example of the slats with the shade cloth.

Chairman Greene asked how long the business had been present. Mr. Reyes explained that the business had been there for six months, and that they were also still renting another location and explained their expansion. He stated that he had fenced the site and used it for storage. Mr. Greene asked why the Applicant had not contacted the County prior to operation. Mr. Reyes stated that he had applied for the permit and stated that when they had applied for the permit for the fence that it granted permission to operate. Mr. Gardner explained that there was not a permit for a fence, but rather only a permit for land clearing. Mr. Young asked about the photos submitted by the neighbor, asking if the equipment visible in the photo was being stored permanently. Mr. Reyes explained that the items were in transit, and would not be stored indefinitely. Mr. Greene asked Mr. Gardner if the zoning regulations had any guidelines regarding the landscaping and screening. Mr. Gardner explained that the regulations did not generally consider vegetative material as screening, but did explain the landscaping requirements. Mr. Greene suggested using a combination of slats, mesh, and vegetation to meet the intent of the screening requirement. Mr. Salaiz expressed support for vegetation to be used to enhance the screening. Mr. Ambriz explained that the Applicant had been working with the County since the land clearing and driveway were permitted, noting that permit applications had been rejected. Mr. Greene asked the Board if the 20-foot setback proposed by Staff was adequate. He also expressed concern regarding the limestone chips, noting negative personal experiences with them. Mr. Young expressed similar negative experiences. Mr. Greene asked the Applicant about the hardship posed by the required 80-foot setback as opposed to the

proposed five or 20-foot setbacks.

Mr. Reyes stated that losing 80-feet would make parking and maneuvering the trucks on site difficult. Mr. Gardner clarified that the vehicles could move through the setback area; they just could not be parked in the area. Mr. Reyes demonstrated the hardship that would still be caused due to limited parking area.

There was no further discussion and Chairman Greene asked for Staff's recommendation. Mr. Gardner offered factors in favor and against approval and indicated that Staff recommended Approval of the Variance requests for screening on the south and east sides of the property, to allow a 20-foot setback on the north and west property lines, and relocating the five-foot strip of landscaping inside the fence line. Mr. Gardner further indicated that Staff recommended denial of all other Variance requests.

Mr. Greene noted that he wanted more information regarding the specifics of the landscaping. Mr. Gardner explained that the specifics would be required prior to issuing the commercial permit. Mr. Young made a motion to approve the Variances as recommended by Staff, with the addition that the Applicant be permitted to maintain the existing screening on the north and west sides of the property with the addition of mesh screening and vegetative screening to meet the intent of the zoning regulations. Mr. Salaiz seconded and the motion passed 3 – 0.

Planning Director's Report:

Mr. Gardner noted that there was one docket for the December meeting, a residential setback variance in Naco. Mr. Salaiz made a motion to adjourn. Chairman Greene seconded, and the meeting was adjourned at 6:53 p.m.

Variance Request: Docket BA2-13-04 (Apson Transportation)

 YES, I SUPPORT THIS REQUEST

Please state your reasons:

NO, I DO NOT SUPPORT THIS REQUEST:

Please state your reasons:

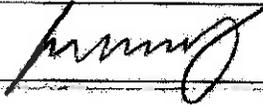
I have almost 8 acres directly affected and any changes in variation will have consequences on the value and future use of my land. The existing fencing is not adequate to cover the exposure that it already had created. Please see attached document for more detail. . . .

(Attach additional sheets, if necessary)

PRINT NAME(S):

Mario M. De la Cruz Jr.

SIGNATURE(S):



YOUR TAX PARCEL NUMBER:

407830088

(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 November 6, 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, October 25.

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

A

Gardner, Peter

From: MARIO DE LA CRUZ JR [marjun2001@gmail.com]
Sent: Tuesday, November 05, 2013 7:11 AM
To: Gardner, Peter
Subject: Fwd: Fw: Docket BA2-13-04 Apson Transportation
Attachments: 015.JPG; APSON Docket BA2-13-04.pdf

----- Forwarded message -----

From: Mario M. De La Cruz Jr. <mdlcrj@yahoo.com>
Date: Mon, Nov 4, 2013 at 7:48 PM
Subject: Fw: Docket BA2-13-04 Apson Transportation
To: "marjun2001@gmail.com" <marjun2001@gmail.com>, "pgardner@cochise.az.gov" <pgardner@cochise.az.gov>

Mr. Gardner,

Thank you for the information you provided over the phone about the Variance Request of Apson Transportation. My residential property (PARCEL # 407-83-008B) sits directly behind the subject property. I took the liberty to research the Regulations that the applicant is requesting for variances to understand the situation. I also attached a photo of the now used area directly from my property.

I disapproved of any Variance requested on the said property because:

1. Existing fenced used (Chain-link w/ slats) is not adequate to hide (aesthetically) and keep debris from the stored materials for shipping going through. Even with a solid 6 feet fencing will not hide the eye sore as the attached photo will show. A solid wall might also help minimize the noise that the operation of the said business will create.

1805.02 Screening Material Screening includes solid walls and fences, or any combination thereof, that cannot be seen through, and are at least 6 feet in height from grade.

2. The requested 5' setback is unacceptable. As the attached photo shows, the size of the materials can tower a 6 feet fencing. As the said property is basically a "Special Use" the minimum setback is set at 160'. I know that this is not feasible but 50'-80' of variance might help minimize the eyesore and noise.

3. The crushed lime gravel that is currently used produce more dust and hardly a dust control materials because they tend to break in smaller particle therefore creating dust in the process. Even with time and constant use of loaded vehicle, a 1" size crushed rock spread at 3" thick will eventually wore out its dust-control property. I would suggest that in addition to gravel approved for dust control, other dust prevention method should be incorporated such as occasionally use of water tank to keep the

dust. And please make sure that it is not followed for just a few months but through out the operation of the business. I have the experience with the same company now presently operating beside Green World Nursery located at 4518 N. Highway 191. The first few months of operation, they were using water tank for dust control. But now, the area is bone dry and just a little breeze would blow the dust all around. They do not even have decency to fix the pot holes on our shared road due to their trucks and loads. I am just speaking through experience.

4. The landscaping should be designed for aesthetics, noise and dust control. I believe that a properly landscaped property keeps everything in balance with growth. The trees should help aesthetically to hide bulky materials and shrubs can be use to screen dust and noise. Landscaping helps for aesthetics, noise pollution, dust pollution and overall good for the environment. Who would not want that?

I know that they (APSON) already put up the fencing and use the lime gravel. And that they are already using it for storage as evident to the enclosed photo. But that does not excuse them from doing what they were supposed to do in the first place, get a permit from proper authority and follow the rule.

I hope that my valid reasons for going against the Variances will be heard by the Board of Adjustment members and be taken in consideration during their decision-making. I am not against economic growth but I am trying to protect my property, the surrounding area and the environment. I will regretfully say that I will not make it to the public hearing but I hope my absence will not drown or silenced my concerns.

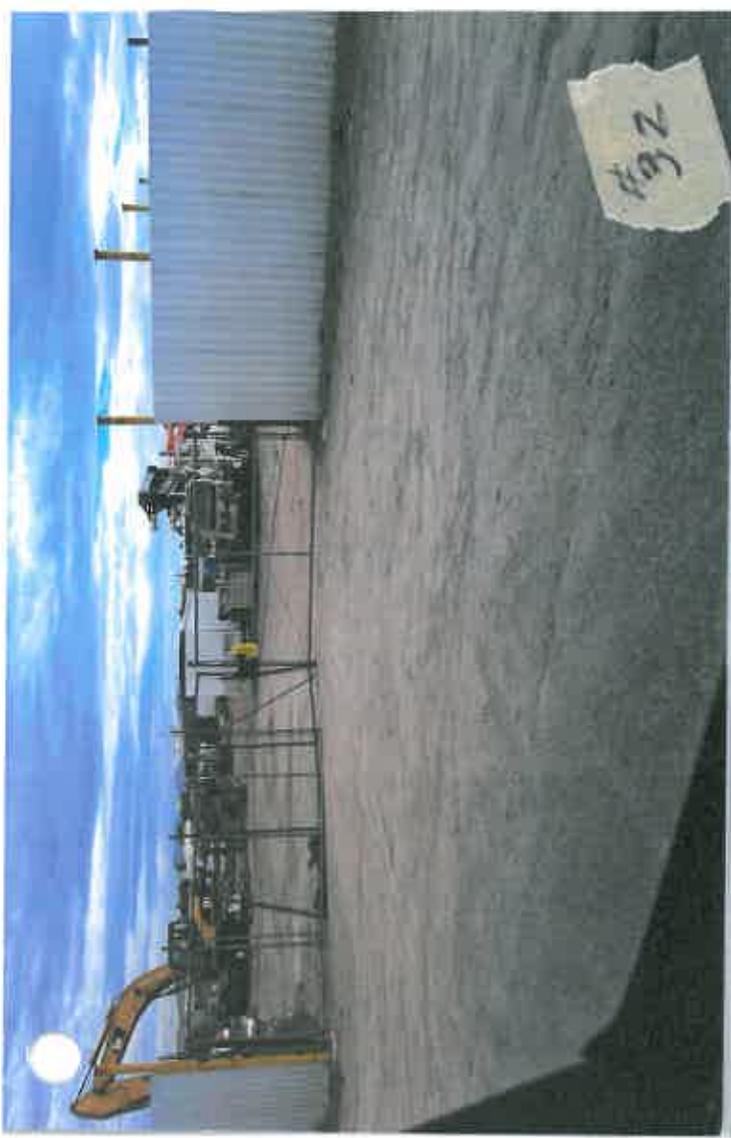
Sincerely,

Mario M. De La Cruz Jr.

**1050 West Rochin Road
Douglas, AZ 85607
(520) 220-6847**

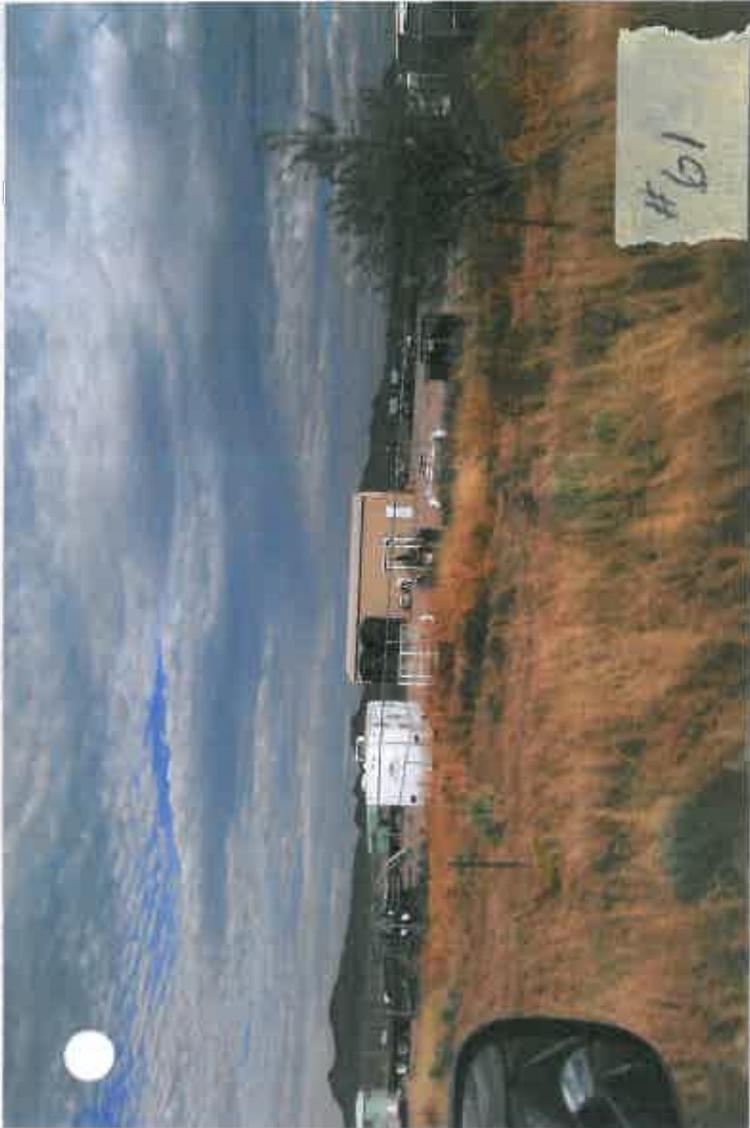


A





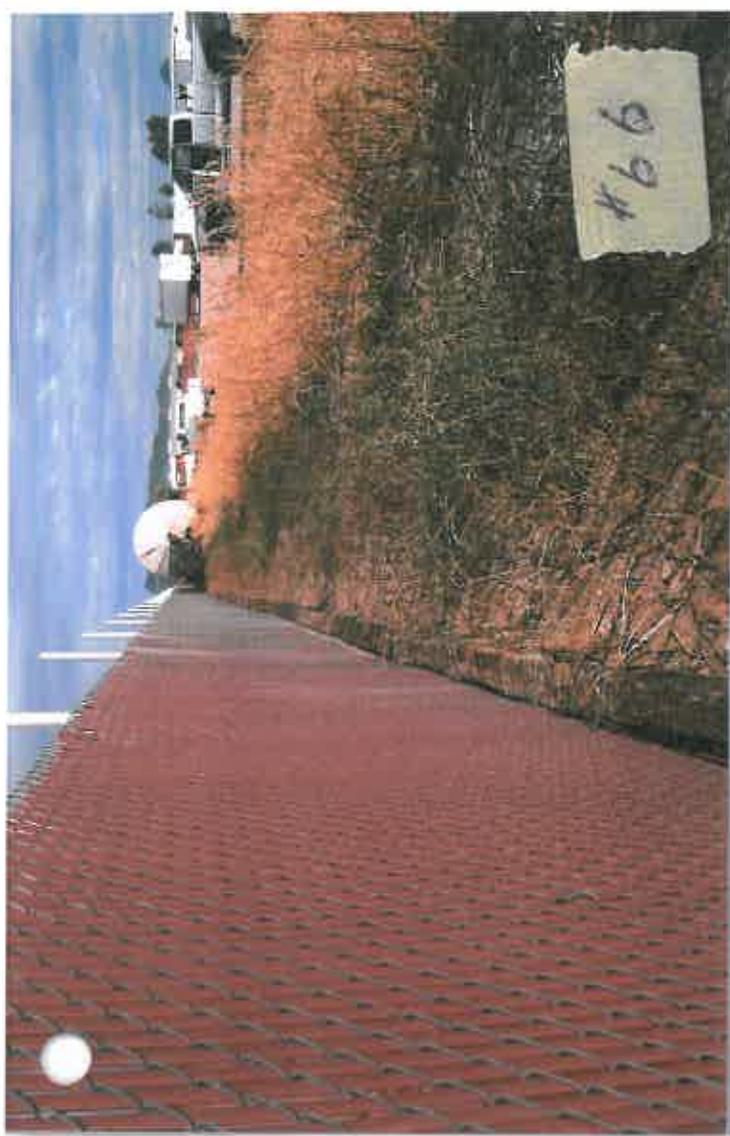






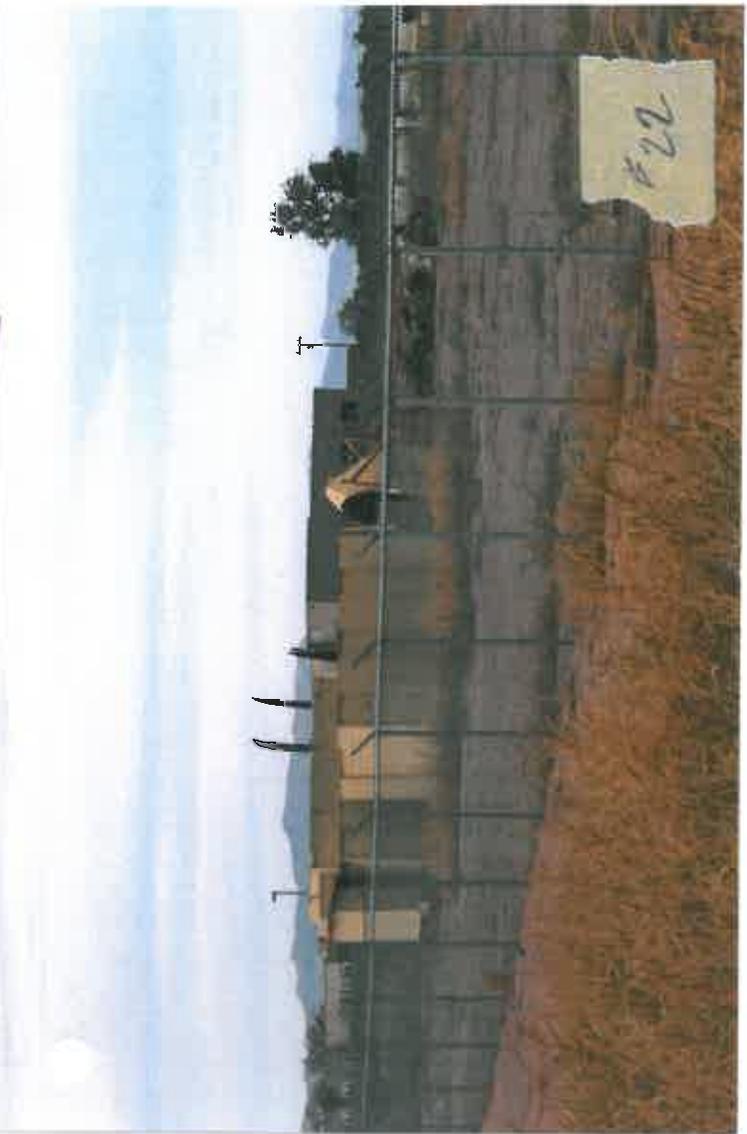
B

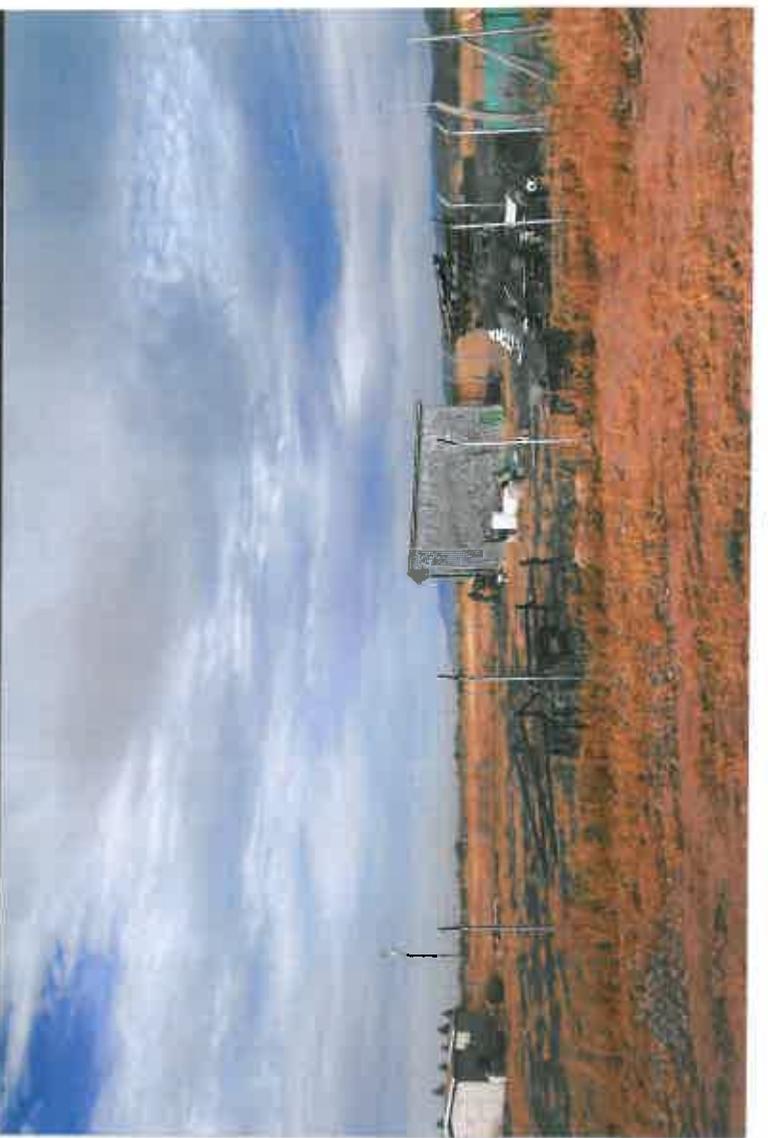












B



B



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 BA2-13-05 (Kiesling)
DATE: November 20, 2013 for the December 4, 2013 Meeting

REQUEST FOR A VARIANCE

The Applicant requests a Variance from Section 704.03 of the Cochise County Zoning Regulations which requires that structures in a TR-9 Zoning District (Residential; one dwelling per 9,000 sq.-ft.) be set back no less than 10-ft. from all property lines. The Applicant intends to construct an attached awning/shade structure approximately 3-ft. from the west property line. The subject parcel (102-57-286) is located at 3572 South Towner Avenue in Naco. The Applicants are John and Dorothy Kiesling.

I. DESCRIPTION OF SUBJECT PARCEL AND SURROUNDING USES

Parcel Size: 0.32 acres (14,000-square feet)
Growth Area: Growth Category C
Comprehensive Plan Designation: Medium-Density Residential (MDR)
Area Plan: Naco Area Plan
Existing Uses: Single-family residence
Proposed Uses: Same

Surrounding Zoning and Uses

Relation to Subject Parcel	Zoning District	Use of Property
North	County Maintained Road / TR-9	W. Hughes St./Golf Course
South	TR-9	Single-Family Residential
East	County Maintained Road/ TR-9	S. Towner Ave./Vacant Land
West	TR-9	Alley/Single-Family Residential

II. PARCEL HISTORY

- 2010 – Permit issued for Single-Family Home.
- 2013 – Permit issued for Detached Garage.

III. PROJECT DESCRIPTION

This is a request for a Variance to allow the permitting and construction of an approximately 330-sq.-ft. awning/shade structure attached to an existing single-family residence being built approximately 3-ft. from the west property line. The purpose of the addition is to provide a shaded storage area, as well as to direct rainwater away from the house and onto existing vegetation.



Above: View of location of the proposed awning.

IV. ANALYSIS OF IMPACTS

The proposed location of the addition to the single-family residence will not, in staff's estimation, create any significant on-site or off-site impacts. There is existing vegetative screening, a 20-foot wide alley and a six-foot high block wall separating the proposed location of the addition and the immediately impacted parcel as shown in the photo below. In addition, the Naco community is densely populated with single-family and manufactured homes with a multitude of non-conforming accessory structures with small setbacks, legal and otherwise. For example, as shown in the second photo below, the residence immediately to the south shows a zero lot line. Therefore, this request would not be out of character for the neighborhood.

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 November 18, 2013 and published a legal notice in the Bisbee Observer on November 14, 2013. To date, the Department has received one letter of support from a neighboring property owner.



Above: View of alley and block wall on adjoining parcel.

VI. SUMMARY AND CONCLUSION

Factors in Favor of Allowing the Variance

1. Allowing the addition of the awning / shade structure to the single-family residence would not generate any substantial on-site or off-site impacts;
2. The Naco area has a proliferation of similar structures with reduced setbacks; and
3. Staff received one statement of support from a neighboring property owner.

Factors Against Allowing the Variance

1. None Apparent



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

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 BA2-13-05, 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



COMMUNITY DEVELOPMENT DEPARTMENT

Planning, Zoning and Building Safety
1415 Melody Lane, Bisbee, Arizona 85603

(520) 432-9240
Fax 432-9278

COCHISE COUNTY

APPLICATION FOR VARIANCE

OCT 16 2013

PLANNING

MTC OF
12/4/13

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. Tax Parcel Number: 102-57-286

2. Address of Parcel: 3572 Townner Ave, Naco, Az

3. Area of Parcel (to nearest tenth of an acre): 14,000 sq ft

4. Zoning district classification of parcel: TR9

5. Describe existing uses of the parcel and the size and location of existing structures and buildings on it. 26x42 HOME 19' from back fence

WITH 16' x 93' SUN PORCH

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

GARAGE 26' x 36' SOUTH SIDE OF HOUSE (PERMITTED)

SUN ROOF 11' x 30' ON ALLEY SIDE OF HOUSE

(VARIANCE REQUIRED), END WALL FOR SUNROOF

7. State the specific nature of the variance or variances sought, identifying the applicable section or sections of the Cochise County Zoning Regulations.

NEED VARIANCE TO BUILD SUN ROOF TO WITHIN 3'
OF REAR ALLEY.

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 practical difficulties or unnecessary hardship to the property owner. In granting variances, however, the general intent & purpose of the Zoning Regulations will be preserved. (See Section 2103.02 on variances (attached) Describe the reasons for requesting the variance and attach any documents necessary to demonstrate compliance with the provisions cited in #7 above.

I'VE LEARNED THAT SUN PROTECTION IN AZ. IS A
MUST FOR ANYTHING STORED OR PARKED. UNUSED
SPACE BEHIND HOME IS BEST & LEAST INTRUSIVE
PLACE FOR A ROOF AND STORAGE.

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 PROPOSED ROOF IS ON AN ALLEY. NEIGHBORS
6' BLOCK WALL ALONG THAT SIDE. TREES, T'ALREADY,
ALONG ALLEY WILL RENDER ROOF INVISIBLE FROM
ALLEY OR STREET.

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

<u>PROPERTY OWNER</u>	<u>ADDRESS</u>
<u>John & Dorothy Kiesling</u>	<u>PO Box 308 Naco, Az 85620</u>

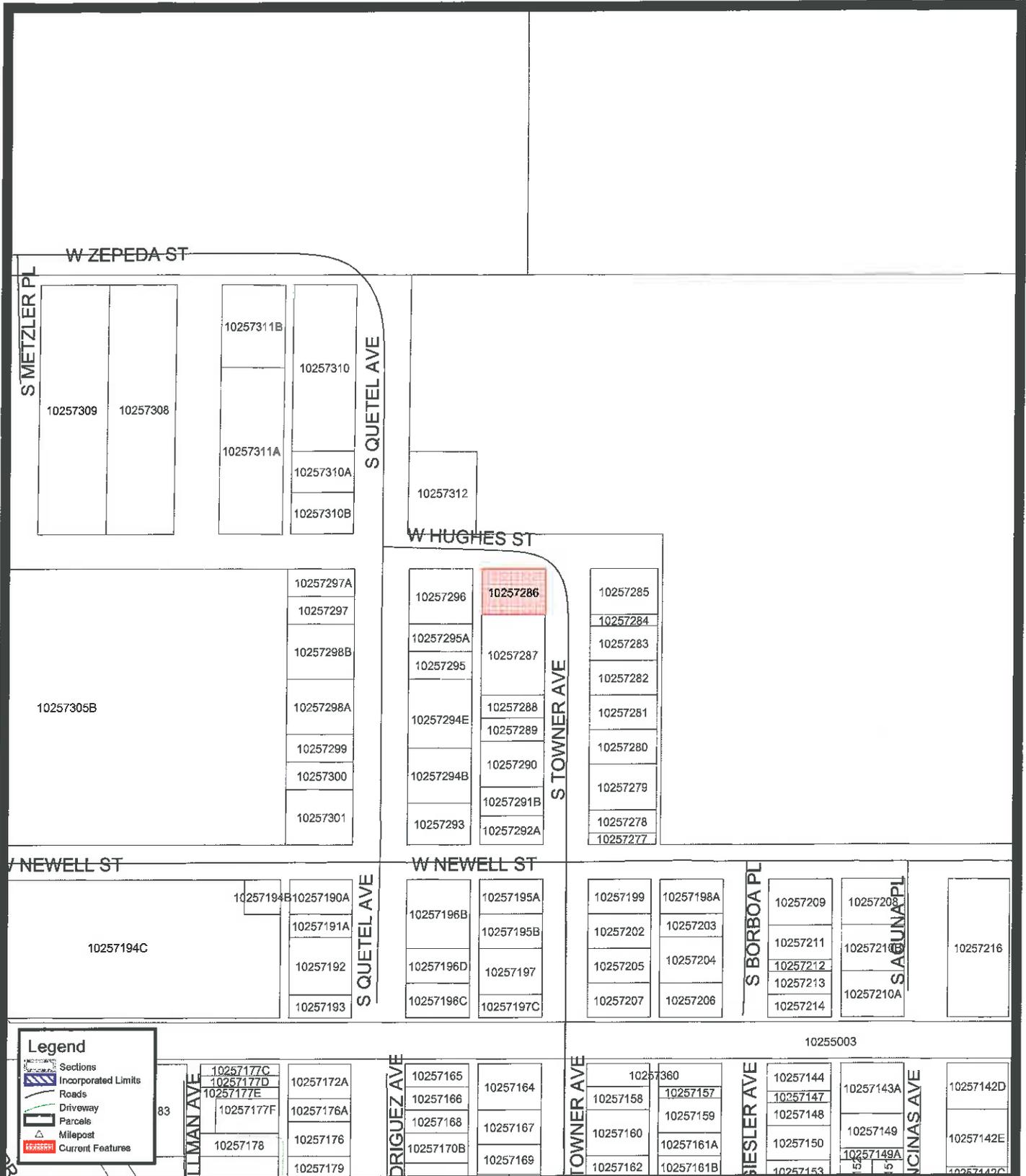
The undersigned hereby certifies and declares that to the best of his/her knowledge and belief the data submitted on and attached to this application for a variance from the terms of the Cochise County Zoning Regulations are true and correct.

<u>SIGNATURE OF PETITIONER</u>	<u>ADDRESS</u>	<u>DATE</u>
<u>John Kiesling</u>	<u>PO Box 308 Naco Az.</u>	
<u>Dorothy Kiesling</u>	<u>PO Box 308 Naco Az</u>	

APPLICANT'S PHONE NUMBER 520-227-4275

APPLICANT'S EMAIL ADDRESS jd.kiesling@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 (\$300) payable to the Cochise County Treasurer. Return to the Cochise County Community Development Department, 1415 Melody Lane, Building E, Bisbee, Arizona, 85603.



Legend

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



**BA2-13-05 (Kiesling)
Location Map**

This map is a product of the
Cochise County GIS

0' 1" = 300'

Variance Request: Docket BA2-13-05 (Kiesling)

X

YES, I SUPPORT THIS REQUEST

Please state your reasons:

Reasonable structure & it does not seem property values will be negatively affected.

NO, I DO NOT SUPPORT THIS REQUEST:

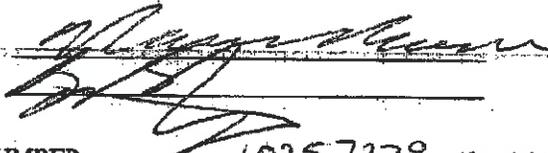
Please state your reasons:

(Attach additional sheets, if necessary)

PRINT NAME(S):

Nancy Bourke Richard Swartz

SIGNATURE(S):



YOUR TAX PARCEL NUMBER:

10257279

(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 December 4, 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, November 22.

RETURN TO:

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

D