

EXPANDED AGENDA

Board of Adjustment, District 1

March 28, 2012

Cochise County Service Center,

4001 E. Foothills Drive (in the former Courtroom)

Sierra Vista, Arizona

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

Call to the Public

NEW BUSINESS

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

Docket BA1-12-02 (Yarbrough): The Applicant seeks to establish a medical office, and requests the following Variances to site development standards in a General Business District:

Section 1203.05 (screening); 1203.02 (setbacks); 1804.07.C (paved surface standard – gravel surfacing requested); and 1908.03.B (maximum sign size).

The subject parcel (Parcel # 104-06-020D) is located at 4524 E Hereford Road in Hereford, AZ.
Applicant: Nathan Yarbrough

Call for PLANNING DIRECTOR'S PRESENTATION

- Declare PUBLIC HEARING OPEN
- Call for APPLICANT'S STATEMENT
- Call for COMMENT FROM OTHER PERSONS (either in favor or against)
- 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)

Item 2

Docket BA1-11-08 (Bays): Consideration and discussion to clarify Michael Thornburg's position on Docket No. BA1-11-08 (Bays), being a request by Applicant Paul Randall Bays for a 6-foot height Variance in a TR-36 Zoning District. The Board granted the Variance at their regular meeting of January 25, 2012. Mr. Thornburg has requested that the Board of Adjustment convene to hear his testimony, and to re-consider the Docket in question. If the Board grants his request, Docket BA1-11-08 will be re-considered by the Board at their regular meeting of April 25, 2012.

Item 3: Call for Planning Director's Report

ADJOURNMENT



COMMUNITY DEVELOPMENT DEPARTMENT

Planning, Zoning and Building Safety

1415 Melody Lane, Bisbee, Arizona 85603

(520) 432-9240

Fax 432-9278

Carlos De La Torre, P.E., Director

MEMORANDUM

TO: District 1 Board of Adjustment

FROM: Keith Dennis, Senior Planner
For: Carlos De La Torre, Community Development Director

SUBJECT: Docket BA1-12-02 (Yarbrough)

DATE: March 19, 2012, for the March 28, 2012 Meeting

APPLICATION FOR VARIANCES

Docket BA1-12-02 (Yarbrough): The Applicant seeks to establish a medical office, and requests the following Variances to site development standards in a General Business District:

Section 1203.05 (screening); 1203.02 (setbacks); 1804.07.C (paved surface standard – gravel surfacing requested); and 1908.03.B (maximum sign size).

The subject parcel (Parcel # 104-06-020D) is located at 4524 E Hereford Road in Hereford, AZ. It is further described as being situated in Section 18 of Township 23, Range 21 East of the G&SRB&M, in Cochise County, Arizona. Applicant: Nathan Yarbrough

I. DESCRIPTION OF SUBJECT PARCEL AND SURROUNDING USES

Size: 1.47 Acres

Zoning: GB – General Business

Growth Area: Category B Community Growth Area

Plan Designation: Enterprise

Area Plan: Sierra Vista Sub-Watershed

Existing Uses: None

Proposed Uses: Professional Medical Office

Surrounding Zoning

Relation to Subject Parcel	Zoning District	Use of Property
North	GB	Single Family Residential
South	TR-36	Flying V Ranch
East	SR-43	SR 92, Hereford Post Office
West	SR-43	Flying V Ranch

II. PARCEL HISTORY

The Applicant has recently applied for a permit to establish a medical office building on the property, a permitted principal use in the General Business District. There are no prior instances of permits or violations on the subject property, which is currently undeveloped.

III. PROJECT DESCRIPTION

The Applicant, Nathan Yarbrough, intends to establish a medical office building on the North side of the subject property. In the Variance Application (Attachment A), he explains the reasons for each of the four requested Variances. These are:

1. A request to waive the screening requirement along the boundary with the TR-36 District to the South and West (1203.05). The adjacent Flying V Ranch is a large tract used for cattle grazing, and thus, no residential development would experience any impact if the screening requirement were waived;
2. A request to vary the setback requirement along these same property lines, to allow a 25-foot setback for the main office, and eight feet for a proposed storage building (40 feet is required per Section 1203.02.B). The Applicant asks for this Variance in order to be able to make room to for the 21 required parking spaces at the front of the proposed building;
3. A request to allow part of the parking and driveway area to be surfaced with a 2-inch thick treatment of gravel. Section 1804.07.C requires that the parking areas be paved; and
4. As the Applicant proposes to allow multiple tenants in the medical office building along an arterial road, he requests that the allowable sign square footage be 80 feet, so as to accommodate space for individual tenant signs on one sign structure. Section 1908.03 allows for one square foot of sign area per lineal foot of street frontage, up to a maximum of 80 square feet. Street frontage is difficult to calculate for this site due to the unique site-specific conditions (see below).



Above: Aerial view of the project site, at the terminus of Hereford Road West of Highway 92. The parcel has, at the most conservative estimate, 40 feet of street frontage, where the Hereford Road travelway borders the parcel.

IV. ANALYSIS OF IMPACTS

The project site is at the Hereford Road/SR 92 intersection. This area provides a small but growing anchor of non-residential uses serving the Hereford community. The addition of a professional medical office at this location will result in an increase in traffic at this intersection. This increase in traffic is not altogether relevant to the Variances requested, but is nonetheless likely to be the most significant off-site impact generated by this use. The next most likely generator of off-site impacts might be the requested sign variance. The sign size allowance is difficult to calculate due to the question of how frontage ought to be calculated for this location, but if allowed at the requested size and at a reasonable height, staff would have no concern about granting this variance at this location. As for the screening and setback variances, staff has no concerns regarding off-site impacts.



Above: Westward view of the project site, as seen from the terminus of Hereford Road. Below: East view from the same position.



The setback Variances are requested in order to make room to accommodate the required number of parking spaces on the property, an important consideration given the possible number of visitors to the office at a given time.

As for the surfacing Variance, the Applicant maintains that concerns about stormwater runoff are the primary concern. While they intend to pave a portion of the driveway/parking area as required by standard, the engineering site work thus far performed indicates that, if the site were to be paved entirely as required, the runoff calculations are such that a detention basin would be needed to mitigate stormwater runoff impacts. This would, in turn, make adequate parking more difficult to achieve. The Applicant does intend to pave the area immediately adjacent to the Hereford Road terminus to the East.

V. PUBLIC COMMENT

The Department sent notices to neighboring property owners within 300 feet. Staff posted the property as required, and advertised the request in the *Bisbee Observer* on March 8, 2012. To date, the Department has received no correspondence for or against the request.

VI. SUMMARY AND CONCLUSION

Factor in Favor of Approval

1. The requested Variances would not result in a building or structure out of character with the neighborhood, nor would they, in staff's estimation, result in detrimental off-site impacts.

Factors Against Approval

None Apparent.

VII. RECOMMENDATION

Based on the factor in favor of approval, Staff recommends **approval** of the requested Variances.

Sample Motion: *Mr. Chair, I move to approve Docket BAI-12-02, granting the Variances 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



COMMUNITY DEVELOPMENT DEPARTMENT

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

(520) 432-9240
Fax 432-9278

APPLICATION FOR VARIANCE

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

TO THE HONORABLE BOARD OF ADJUSTMENT, DISTRICT 1

I (we), the undersigned, hereby petition the Cochise County Board of Adjustment, District 1 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: 104-06-020 D N 1/2
2. Address of parcel: unassigned - Behind Hereford
Post Office (Hwy 92 & Hereford Rd)
3. Area of Parcel (to nearest tenth of an acre): .74 Acre
4. Zoning District designation of Parcel: EB
5. Describe existing uses of the parcel and the size and location of existing structures and buildings on it. Vacant land

6. Describe all proposed uses or structures, which are to be placed on the property.
Professional Office Building
- _____

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

- (A) West Boundry 6' high Solid Fence 1203.05
- (B) Rear Set-Back at 25' for Bldg / storage shed 8' Setback on West P/L 1203.02.B
- (C) Parking on South side to have 2" thick gravel 1804.07.C
- (D) Signage to have 80 Sq. ft. for Multiple Occupants & Visibility from Hwy 9 1908.03.B
- (E) Storage shed 1203.02.B

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.

- (A) Open Ranch grazing land and No vehicle traffic to rear of building
- (B) 40' Set-back on rear limits Front Parking to less than 21 Required Space
- (C) Allow rain water penetration & Shed to stay less than 50% solid cover
- (D) Need Signage to allow for Multiple tenants display (4-6 tenants)
- (E) Storage Shed to be Placed For Minimum Exposure to Entrance

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.

- (A) No Vehicle traffic on rear of building - No residents live on Open grass land.
- (B) No roadway or residence to be effected by 25' Setback on west boundry
- (C) Keeping ground pervious keeps water on property & Minimizes Water shed
- (D) Signage is 220 ft From Hwy 92 and unlighted as to not distraction
- (E) Placement will not effect neighbors Views or Views of New Proposed P/B,

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

PROPERTY OWNER

MAIL ADDRESS

Nathan Yarbrough and Monica Vandivort

5335 E Brushy Oak Ln

Hereford, AZ 85615

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

Nathan Yarbrough 5335 E Brushy Oak Ln Hereford, AZ 85615 Jan 2, 2011

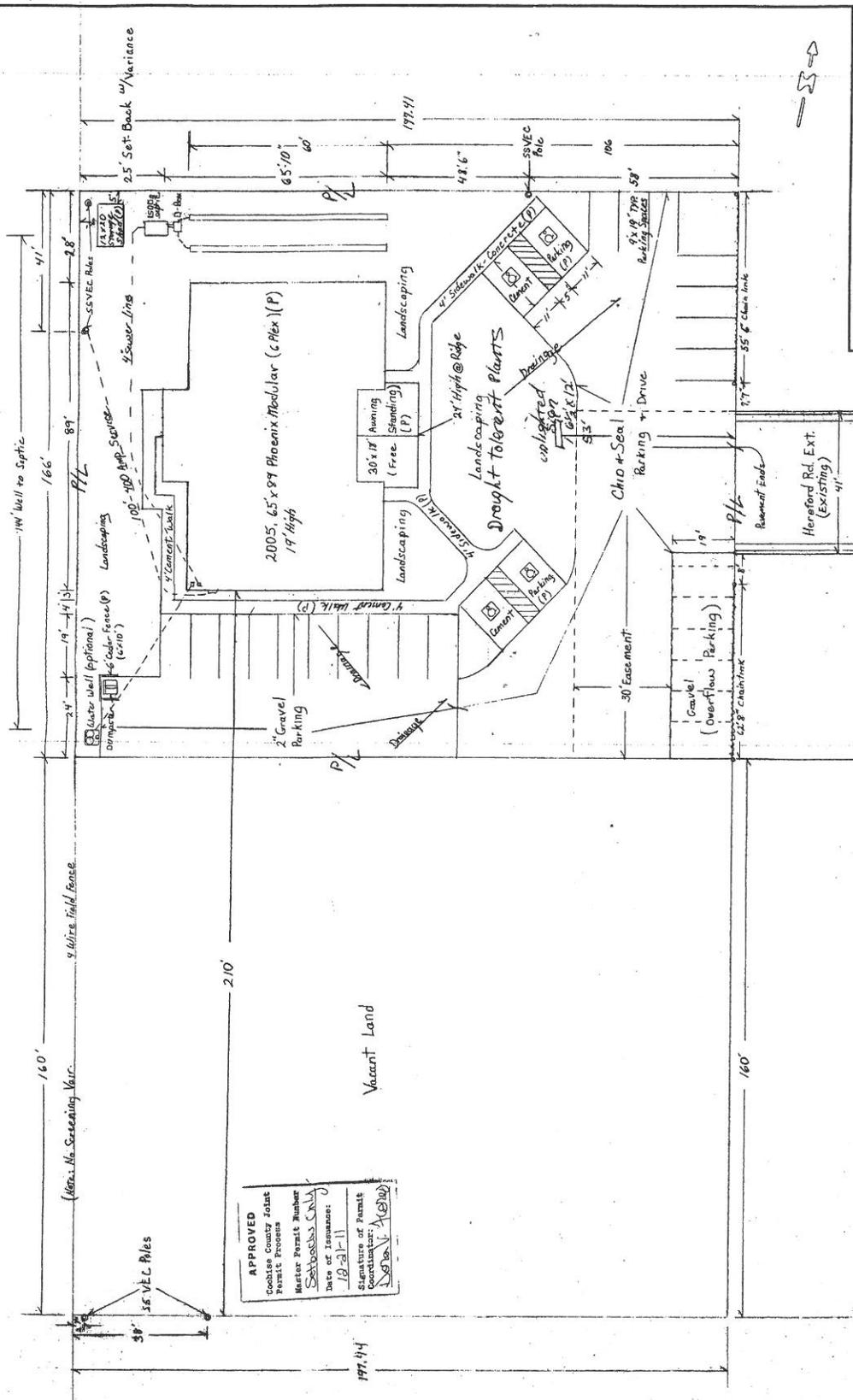
Monica Vandivort 5335 E Brushy Oak Ln Hereford AZ 85615 1-3-12

APPLICANT'S PHONE NUMBER 520-266-1417 Cell / 520-803-0283 Hm

APPLICANT'S EMAIL ADDRESS dnate@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.

Also, No Utilities within 300'



APPROVED
 Cochoise County Joint
 Permit Process
 Master Permit Number
 2005-06-020D
 Date of Issuance:
 10-21-11
 Signature of Permit
 [Signature]

2005-65x89 Phoenix Modular FBB
 PROJECT #:
 DATE: 10/20/11
 TAX ID 104-06-020D GB
 LOCATION: Hereford Rd + Hwy 92
 SHEET: 1 of 1

160' (Per: No Screening Var.)
 9' Utility Field Fence

114' Well to Septic
 166'

25' Set Back w/ Variance

210'

Vacant Land

160'

Hereford Bldg Office

2005-65x89 Phoenix Modular (c Flex) (P)
 19' High

30x18 Awning
 (Free Standing)
 (P)

20' High @ Ridge
 Landscaping
 Drought Tolerant Plants

CHIO + Seal
 Parking + Drive

Herford Rd. EXT.
 (Existing)
 41'

30' Easement

Gravel
 (Overflow Parking)
 19'

Basement Ends

Basement Ends

41'

38' SE V.E.C. Poles

197.44

197.41

48.6'

65.10'

60'

106'

58'

35' 6" Chain Link

2.7'-0"

19'

30'

19'

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Carlos De La Torre, P.E., Director

MEMORANDUM

TO: District 1 Board of Adjustment
FROM: Keith Dennis, Senior Planner
For: Carlos De La Torre, Community Development Director
SUBJECT: Docket BA1-11-08 (Bays)
DATE: March 19, 2012 for the March 28, 2012 Meeting

Docket BA1-11-08 (Bays): Consideration and discussion to clarify Michael Thornburg's position on Docket No. BA1-11-08 (Bays), being a request by Applicant Paul Randall Bays for a 6-foot height Variance in a TR-36 Zoning District. The Board granted the Variance at their regular meeting of January 25, 2012. Mr. Thornburg has requested that the Board of Adjustment convene to hear his testimony, and to re-consider the Docket in question. If the Board grants his request, Docket BA1-11-08 will be re-considered by the Board at their regular meeting of April 25, 2012.

I. BACKGROUND

On January 25, 2012 the Board of Adjustments, by a 2 to 1 vote, granted an application for a Variance to allow the Applicant, Paul Randall Bays, to construct an accessory boat and RV garage with a height of 26 feet.

After the decision, one of the neighbors who had objected to the Variance, Michael Thornburg, learned of the Board decision. Mr. Thornburg also learned from the draft minutes that the Board had understood that he had withdrawn his objection. In fact he had not. Mr. Thornburg states that the following excerpts from the draft minutes are inaccurate:

- "He explained that the Thornburgs, who resided immediately North of the property had been informed that the garage would not be on the East side of the property, but on the West side. This, Mr. Bays explained, was 'the reason why they [were] not here,' indicating that their objection had been withdrawn."
- "Mr. Cottingham then asked the Applicant if he had spoken with any objecting neighbors since the December meeting. Mr. Bays said that other than the Thornburgs and Lazoks, he had not."
- "Mr. Bays then re-iterated that the Thornburgs had objected until they learned that the building was to be placed on the West side rather than the East, and that their objection was withdrawn as a result."

Mr. Thornburg has requested that the Board allow him the opportunity to correct the record and to reconsider its decision to grant the variance.

II. BOARD OF ADJUSTMENT BYLAWS

Article III, Section 8 of the District 1 Board of Adjustment Bylaws reads as follows:

Decisions: After a matter has been officially considered and the Board of Adjustment has reached a decision, the Board of Adjustment shall not reconsider that decision until the matter has been entered upon the agenda for and heard at a subsequent regular meeting of the Board of Adjustment.

The above passage describes the conditions under which the Board may reconsider a Docket for which it has already entered a decision. Should the Board decide to reconsider this Docket, the Bylaws do allow it.

III. ATTACHMENTS

- A. Draft Minutes, BA1, January 25, 2012
- B. Letter to Mr. Bays, March 7, 2012
- C. Correspondence



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Carlos De La Torre, P.E., Director

TO: Board of Adjustment, District 1

FROM: Keith Dennis, Senior Planner
For: Michael Turisk, Planning Manager

SUBJECT: Minutes of Regular Meeting of January 25, 2012

DATE: February 14, 2012

Members Present:

Ed Cottingham, Chairman
Tom Borer, Vice Chair
Jay Sanger, Member

Staff Present:

Keith Dennis, Senior Planner

Others Present:

Steven Walsh, BA1-12-01 Applicant
Paul Bays, BA1-11-08 Applicant
Nick Triphan and Kathy Nieto, Interior Trends Tucson
Rose Mika, Marian McGrew, and Richard Lazok

These minutes for the BA1 meeting held on January 25, 2012 are complete only when accompanied by the memoranda for said meeting dated January 25, 2012.

Call to Order/Roll Call

Chairman Cottingham called the meeting to order at 6:01 p.m. at the Cochise County Service Center Conference Room in Sierra Vista. Mr. Cottingham followed by noting that all members of the Board were present, establishing that the Board had a Quorum and could proceed.

Chairman Cottingham asked for a motion to approve the minutes of September 28, 2011 regular meeting. Vice-Chairman Borer made a motion to approve the minutes as written, and Mr. Sanger seconded the motion. Vote was 3 - 0 to approve the minutes of November 23, 2011 meeting.

Mr. Cottingham then called for disclosures from members of the board. Seeing none, he called for the staff report for the second Docket on the agenda, as the Applicant for Docket BA1-11-08 was not yet present.

NEW BUSINESS

Docket BA1-12-01 (Walsh): The Applicant requested a Variance to Section 904.02 of the Zoning Regulations, which requires that all structures in an SR-43 District be set back no less than 20 feet from all property lines. The Applicant seeks to legitimize an existing guest house that was built 15 feet from the North and West property lines.

The subject parcel (Parcel # 105-94-153) is located at 2803 Zuni Court in Sierra Vista, AZ. The Applicant is Steven Walsh, represented by Kathy Nieto of Interior Trends Remodel.

Mr. Cottingham asked those assembled for the Docket if they had attended a BA meeting before, and briefly explained the process, powers and duties of the board.

Senior Planner Keith Dennis presented the Docket on behalf of the planning director.

Mr. Dennis explained the facts of the case using visual aids such as slides, photos and a site plan provided by the Applicant. He explained that staff had different and sometimes conflicting records as to the exact location of the existing guest house and block fence relative to the real property lines. Because the structure was built without a permit in the 1970s, 100% accurate information as to the location relative to property lines was not forthcoming. In the absence of such, the staff report and recommendations followed the measurements as provided by the Applicant and contractor, which showed the building to be 15 feet from the North and West property lines.

Mr. Dennis then provided the factors in favor of approval of the Docket, and recommended approval of the Variance as requested.

Mr. Cottingham declared the public hearing open and invited the Applicant or representative to speak. Mr. Nick Triphan of Interior Trends Tucson spoke on behalf of the Applicant, declaring that he concurred with the facts and recommendations of staff. He asked if the proposed covered porch to be constructed along the East side of the existing guest house would be affected by the Variance request. Mr. Dennis explained that the legitimization of the structure in its current location would allow for the construction of the porch, which would as a matter of course observe the same 15-foot setback as the existing building.

Mr. Cottingham called for additional comments from those assembled. Seeing none, he invited comments from the Board members. There being none, he called for a motion. Mr. Borer moved to approve the Variance as requested. Mr. Sanger seconded the motion, which passed 3 – 0.

Docket BA1-11-08 (Bays): The Applicant requested a Variance to Section 704.02 of the Zoning Regulations, which allows for a maximum height of 20 feet for accessory structures. The Applicant seeks to construct an accessory boat and RV storage garage, with a proposed height of 26 feet.

The subject parcel (Parcel # 105-18-010T) is located at 2055 E. Yaqui Street in Sierra Vista, AZ. The Applicant is Paul Randall Bays of the same address.

Mr. Dennis then presented the Docket on behalf of the Planning Director. He explained the facts of the case using site photos, maps, a site plan and building elevations provided by the Applicant. He indicated that staff had received objections from four neighbors in the immediate area during the process.

Mr. Dennis closed the presentation and invited questions from the Board. Mr. Borer asked staff to clarify the location of the objecting neighbors relative to the parcel. He then asked the Applicant as to the total height of the boat when mounted on the trailer. Mr. Borer explained that he had conducted a site visit to the area around the property to ascertain for himself what the actual impact might be if the Variance were granted.

Mr. Lazok indicated a qualified objection, stating that the location of the proposed garage closer to the existing home would marginally impact his view of the Mule Mountains to the East but that overall, he had no real problem with the request. He said his letter indicated marginal objection, but also his desire to sit down with the Applicant to discuss reasons for the request, as well as options and alternatives that might be available.

Mr. Bays displayed a number of photos of the property and vicinity on a laptop computer which he had brought for the purpose. He explained that the Thornburgs, who resided immediately North of the property had been informed that the garage would not be on the East side of the property, but on the West side. This, Mr. Bays explained, was “the reason why they [were] not here,” indicating that their objection had been withdrawn.

Mr. Cottingham asked staff if any of the original objecting neighbors had withdrawn or otherwise qualified their objections. Mr. Dennis indicated that no such correspondence had been received. Staff did receive one call from a neighbor asking if they should let their original objection stand or if a new letter was needed, to whom the answer was given that the original objecting correspondence would suffice.

Mr. Cottingham then asked the Applicant if he had spoken with any objecting neighbors since the December meeting. Mr. Bays said that other than the Thornburgs and Lazoks, he had not.

Mr. Sanger then asked the Applicant a number of questions about the dimensions of the proposed building, the height of the boat as mounted on the trailer, and what options there might be to house the boat in a structure less than 26 feet in height.

Mr. Cottingham then asked for clarification from staff as to how height is measured from the standpoint of zoning regulations. He then asked the Applicant how the building might be made to both house the building and comply with the zoning standard. Mr. Bays answered by saying that, if the proposed building were to match the home in terms of roof structure and pitch. He explained that the pitch of the roof meant that trusses would have to be within the building to hold up the roof, and that these would interfere with the boat unless their height was sufficient to clear the mounted boat.

There followed a brief discussion about trusses and structural elements of buildings. Mr. Borer said that the proposed building would generally appear as part of the overall building mass of the existing structures on the property and that it seemed that, in his view, the impact on neighboring views would not be significant.

Mr. Bays then showed the Board members some additional photographs. Mr. Borer pointed out that the proposed structure would be fairly in keeping with the character of the other structures on the property and in the neighborhood.

Mr. Sanger discussed the roofline of the existing structures on the property and the possibility for a flat-roofed building with a taller door bay on a shorter building in order to allow the boat to be housed within the zoning standard height limit. Mr. Bays said the goal was to have the building match the style of the main house.

Mr. Cottingham then asked the Applicant the extent to which his existing house already posed a problem to the mountain views of the neighbors. Mr. Bays said he had investigated this question by observing the

property from the vantage point of each of the neighbors' properties. Mr. Cottingham asked if the construction of the new building would create or exacerbate such a problem if it already existed. There followed a brief discussion clarifying the location of the various structures on the property and neighborhood, as well as the angles and positions from which the various photographs were taken.

Mr. Lazok re-iterated that his principle concern was the height of the proposed building and his view of the Mule Mountains to the East, but that he had a difficult time conceiving of how it would look until he could actually see it.

Mr. Bays then re-iterated that the Thornburgs had objected until they learned that the building was to be placed on the West side rather than the East, and that their objection was withdrawn as a result. Mr. Borer indicated that he was present when the Applicant and a neighbor discussed the issue in December of 2011. *(Note: the sign in sheet for the 12/21/2011 meeting indicates that Keith and Mari Linden, and not the Thornburgs, were the ones present that evening).*

There followed a clarification of the height of the existing building and the height standards for principal and accessory structures in a TR District. A nearby structure was discussed, which was believed to have been built without a permit and which also appeared to be above the height limit.

Mr. Bays indicated that the purpose of the Variance request was to simply cover the boat, which he said was "very expensive, a \$200,000 boat," which he said spent much of the year in Mexico, but in the winter months he wanted to be able to keep it out of the elements. The other goal was to cover it with a structure that was architecturally compatible with the home and neighborhood. In regard to property values being affected, he stated that his home was "easily a million-dollar house" and that the act of purchasing the partially-built house and completing it had a positive effect on neighboring property values.

Mr. Cottingham asked about a sub-grade building, in which the boat could be housed below grade. Mr. Bays said he had considered that, but explained that the topography of the property made that solution undesirable.

Mr. Sanger asked if the objecting neighbors would be notified of the Board's decision. Mr. Dennis said that a limited number of people would be notified directly, but that the results of the decision would likely be common knowledge in the neighborhood in short order regardless of the Board's decision. Mr. Cottingham talked about the possibility of the Board action setting or being seen as setting a precedent. Mr. Dennis stated that, to the extent that any precedent was set by the Board action, it would be that Variances to site development standards require the approval of the Board of Adjustment. Beyond that requirement, it was understood that such requests were heard and decided on a case-by-case basis.

Mr. Cottingham said that the number and consistency of objections from close neighbors in this case was of real concern, unless this was a matter of a single neighbor "raising a conspiracy" and thereby creating an issue where there might not otherwise be such. Mr. Bays indicated that this was the case, and invited Mr. Lazok to speak to that issue, whereupon the latter identified Mr. Thornburg as having notified him of his concerns, which in turn caused Mr. Lazok to share similar concerns. Mr. Lazok was asked if his concerns had been abated. He and the Applicant began to talk about their close friendship. Mr. Cottingham said that friends might disagree on any number of issues, and asked Mr. Lazok again whether the Applicant's convenience trumped the concerns of his neighbors. Before Mr. Lazok could answer, Mr.

Bays spoke and said that if the Board denied the Variance, he would simply leave the concrete pad in place and not build any structure over it. This would mean that the boat would sit idle on the pad for eight months out of the year, and he himself considered the boat an eyesore, and that he might have to sell it in order to alleviate the existing aesthetic issue in the neighborhood which he said the boat caused. Mr. Cottingham suggested leaving it in Mexico where it saw the most use, and some discussion ensued as to the height of the trailer and the possible interference this would cause with the boat propellers. He said the trailer was built specifically for this boat and could not be lower than it was.

Mr. Bays re-stated that all other alternatives and possibilities had been considered and that there was no other location on the property or elsewhere where the boat could be adequately housed. Mr. Cottingham again clarified the position of the proposed building relative to objecting neighbors and their views of the mountains.

Mr. Cottingham called for staff recommendation. Mr. Dennis said that the number, type, and consistency of objections from neighbors, as well as their close proximity to the property meant that staff must recommend denial of the Variance. This, he explained, was a quantitative issue, and that the Board may consider the more subtle, quantitative aspects of the case. Mr. Bays turned to Mr. Lazok and asked if he would rather see the boat in a structure or in no structure at all. Mr. Lazok said that in terms of aesthetics, a structure is better than no structure, but re-iterated his primary concern was with the possible impact to his view to the East. Nevertheless he seemed to suggest that he was withdrawing his objection. Mr. Dennis asked if this was the case, and Mr. Lazok said he did “not have a strong objection” but then said that, in order to make things easier for the Board, he would say that he withdrew his objection.

MR. Cottingham called for a motion. Mr. Sanger moved to approve the Variance, Mr. Borer seconded it, and it passed 2 – 0. Mr. Cottingham cast the dissenting vote, and re-stated the reasons for his vote.

Election of Officers:

Mr. Cottingham called for nominations for 2012 officers, indicating he did not wish to serve as Chairman for this term. He nominated Tom Borer to be Board Chairman for 2012; Mr. Sanger seconded and the motion passed 3 – 0. Mr. Borer then nominated Mr. Cottingham to be Vice-Chairman for 2012. Mr. Sanger seconded the motion, which also passed 3 – 0.

Planning Director's Report:

Mr. Dennis gave a brief explanation of upcoming Planning Commission Dockets and congratulated Mr. Sanger on his recent appointment to the Commission.

Mr. Sanger indicated that this would be his last Board meeting, as he had accepted an appointment to the Planning and Zoning Commission.

The meeting was adjourned at 7:15 p.m.



COMMUNITY DEVELOPMENT DEPARTMENT

Planning, Zoning and Building Safety

1415 Melody Lane, Bisbee, Arizona 85603

(520) 432-9240

Fax 432-9278

Carlos De La Torre, P.E., Director

March 7, 2012

Paul Randall Bays
2055 E Yaqui Drive
Sierra Vista, AZ 85650

SUBJECT: Docket No. BA1-11-08 (Bays), Parcel No. 105-18-010T.

Mr. Bays,

As you are aware, on January 25, 2012 the Board of Adjustments, by a 2 to 1 vote, granted your application for a variance to construct an accessory boat and RV garage with a height of 26 feet.

After the decision, one of the neighbors who had objected to the variance, Michael Thornburg, learned of the Board decision. Mr. Thornburg also learned from the draft minutes that the Board had understood that he had withdrawn his objection. In fact he had not. Mr. Thornburg states that the following excerpts from the Minutes are inaccurate:

- "He explained that the Thornburgs, who resided immediately North of the property had been informed that the garage would not be on the East side of the property, but on the West side. This, Mr. Bays explained, was 'the reason why they [were] not here,' indicating that their objection had been withdrawn."
- "Mr. Cottingham then asked the Applicant if he had spoken with any objecting neighbors since the December meeting. Mr. Bays said that other than the Thornburgs and Lazoks, he had not."
- "Mr. Bays then re-iterated that the Thornburgs had objected until they learned that the building was to be placed on the West side rather than the East, and that their objection was withdrawn as a result."

Mr. Thornburg has requested that the Board allow him the opportunity to correct the record and to reconsider its decision to grant the variance. Chairman Borer has set the following agenda item on the Board's calendar to be heard on Wednesday, March 28, 2012 at 6:00 p.m. at the Cochise County Service Center, 4001 E. Foothills Drive, Sierra Vista. The agenda item has been advertised and will appear on the March 28 agenda as follows:

Docket BA1-11-08 (Bays): Consideration and discussion to clarify Michael Thornburg's position on Docket No. BA1-11-08 (Bays), being a request by Applicant Paul Randall Bays for a 6-foot height Variance in a TR-36 Zoning District. The Board granted the Variance at their regular meeting of January 25, 2012. Mr. Thornburg has requested that the Board of Adjustment convene to hear his testimony, and to re-consider the Docket in question. If the Board grants his request, Docket BA1-11-08 will be re-considered by the Board at their regular meeting of April 25, 2012.

If you have any questions, please give me a call.

Keith Dennis, Senior Planner

From: Dennis, Keith
Sent: Thursday, February 23, 2012 8:22 AM
To: Hanson, Britt; Wilson, Beverly; Turisk, Mike; Tom Borer
Cc: Call, Pat
Subject: FW: Urgent Matter To Discuss with you

Attachments: 2012-01 BA1 Draft Minutes.docx

FYI - Mr. Borer, as Chairman of the Board, you ought to be aware of this.

From: Call, Pat
Sent: Thursday, February 23, 2012 7:50 AM
To: Dennis, Keith
Cc: De La Torre, Carlos
Subject: FW: Urgent Matter To Discuss with you

Keith –

Could you give me a call (cell phone: 559-3600) at your earliest convenience regarding the email below. I would like some more background before I call Mr. Thornburg.

Thanks.
Pat.

Patrick Call
Cochise County
Board of Supervisors
520.432.9200

From: Michael Thornburg [mailto:thornburg@theriver.com]
Sent: Wednesday, February 22, 2012 9:21 PM
To: Call, Pat
Subject: Urgent Matter To Discuss with you

Pat,

Can you call me at your earliest opportunity regarding an urgent matter. I have spoken with Mr. Ed Cottingham from the Board of Adjustment. Ed recommended that I contact you. My cell is 266-1645, home: 378-0296, and work: 417-8062.

I have reviewed the meeting minutes of the 25 January 2012 Board of Adjustment meeting concerning docket BA1-11-08 and a request for a variance. For example it was reported to the board that I had withdrawn my objection to a requested variance. This is not true. I never withdrew my objection nor have I (or my wife) spoken with the requestor in about a year. My written objection was provided to the board in Dec. I even called Planning and zoning to determine if I needed to resubmit my objection, but was told my original written objection would remain valid and be provided to the board at the next meeting. Mr. Dennis can verify this. I was out of town on 21 Jan on a business trip and unable to attend the meeting.

Mr. Cottingham indicated that you could call him if you have any questions as he has serious concerns about this matter. Also, Mr. Cottingham suggested that Mr. Keith Dennis meet with you and I to discuss the situation. Both Mr. Dennis and Mr. Cottingham have concerns about the information presented to the board. In fact, Mr. Cottingham told me tonight that he will be glad to have the board meet with you in a special session to discuss this matter. Thank you for your time. I have enclosed the minutes about the meeting.

Michael Thornburg
Sierra Vista, AZ