



MARICOPA COUNTY, ARIZONA
Board of Adjustment
Minutes
April 16, 2020

CALL TO ORDER: Chairman Loper called meeting to order at 10:01 a.m.

MEMBERS PRESENT: Mr. Craig Cardon
Mr. Greg Loper
Ms. Heather Personne
Mr. Jeff Schwartz (left @ 2:08 p.m.)
Ms. Fern Ward

MEMBERS ABSENT: None

STAFF PRESENT: Mr. Darren Gerard, Planning Services Manager
Ms. Rachel Applegate, Senior Planner
Ms. Rosalie Pinney, Recording Secretary

COUNTY AGENCIES: Mr. Wayne Peck, County Attorney
Mr. David Anderson, Business Engagement Manager, OET
Ms. Rebecca Quince, Senior Project Manager, OET

ANNOUNCEMENTS: Chairman Loper made all standard announcements.

AGENDA ITEMS: BA2020006, BA2020011, BA2020013, BA2020015, TU2020006,
BA2020005, BA2020007, BA2020008, BA2020009, BA2020014,
TU2020008

APPROVAL OF MINUTES: January 23, 2020 and February 20, 2020

Chairman Loper requested a motion to approve the January 23 and February 20 minutes.

BOARD ACTION: Member Schwartz motioned to approve the January 23 and February 20, 2020 minutes. Vice Chair Ward second. **Approved 5-0.**

CONSENT AGENDA

BA2020006 **Singalove Property (Cont. from 3/19/20)** **District 3**
Applicant: David J. Wade, David J. Wade Architect
Location: 4323 Upper Ridge Way – 2,550' north of the NWC of Lincoln Drive & Hillside Drive in the Paradise Valley area
Zoning: Rural-43
Request: Variance to permit:

- 1) Proposed disturbance of 2,596 sq. ft. of Hillside area outside principal building envelope where no Hillside disturbance outside the principal building envelope is permitted

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| BA2020011 | Orangewood Plaza | District 2 |
| Applicant: | Jeff Rogers, Orangewood Plaza LLC | |
| Location: | 230 S. 98 th Way – 230’ south of the SWC of Balsam Avenue & 98 th Way, in the Mesa area | |
| Zoning: | R-5 | |
| Request: | Variance to permit:
1) Proposed 15 foot Front Setback where 20 feet is required | |
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| BA2020013 | Ostwinkle Property | District 4 |
| Applicant: | Sara and Robert Ostwinkle | |
| Location: | 17335 W. Berridge Lane – 150’ north of the NEC of Bethany Home Road & 174 th Avenue, in the Glendale area | |
| Zoning: | Rural-43 | |
| Requests: | Variance to permit:
1) Proposed Interior Side Yard (East) Setback of 8 feet where 30 feet is required and;
2) Proposed Front Yard (North) Setback of 33 feet where 40 feet is required | |
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| BA2020015 | Swart Property (BA2019049) | District 2 |
| Applicant: | Nicolaas & Hatty Swart | |
| Location: | 29038 N. 56th St. – south of 56th St. & Dixileta Dr., in the Phoenix (Cave Creek) area | |
| Zoning: | Rural-43 | |
| Request: | Variance to permit:
1) Modification to condition ‘b’ of BA2019049 for a time extension | |

Mr. Gerard presented the consent agenda.

BOARD ACTION: Member Schwartz motioned to approve the consent agenda - BA2020006 with conditions ‘a’-‘c’, BA2020011 with conditions ‘a’-‘c’, BA2020013 with conditions ‘a’-‘c’, and BA2020015 with conditions ‘a’-‘c’. Vice Chair Ward second. Approved 5-0.

BA2020006 conditions;

- a) General compliance with the Disturbance Exhibit stamped received March 2, 2020.
- b) All required building permits for the proposed development shall be applied for within 120 days of the hearing date unless otherwise directed by the Board. Failure to apply for any required building permits within the specified time, or to complete necessary construction within one year from the date of approval, shall negate the Board’s approval.
- c) Satisfaction of all applicable Maricopa County Zoning Ordinance requirements, Drainage Regulations, and Building Safety codes.

BA2020011 conditions;

- a) General compliance with the proposed Site Plan, stamped received March 11, 2020.

- b) All required building permits for the proposed development shall be applied for within 120 days of the hearing date unless otherwise directed by the Board. Failure to apply for any required building permits within the specified time, or to complete necessary construction within one year from the date of approval, shall negate the Board's approval.
- c) Satisfaction of all applicable Maricopa County Zoning Ordinance requirements, Drainage Regulations, and Building Safety codes.

BA2020013 conditions;

- a) General compliance with the Disturbance Exhibit stamped received March 16, 2020.
- b) All required building permits for the proposed development shall be applied for within 120 days of the hearing date unless otherwise directed by the Board. Failure to apply for any required building permits within the specified time, or to complete necessary construction within one year from the date of approval, shall negate the Board's approval.
- c) Satisfaction of all applicable Maricopa County Zoning Ordinance requirements, Drainage Regulations, and Building Safety codes.

BA2020015 conditions;

- a) General compliance with the site plan stamped received November 18, 2019.
- b) All required building permits for the proposed and existing development shall be applied for within 1-year of the hearing date unless otherwise directed by the Board. Failure to apply for any required building permits within the specified time, or to pursue the construction permit to completion without expiration, shall negate the Board's approval.
- c) Satisfaction of all applicable Maricopa County Zoning Ordinance requirements, Drainage Regulations, and Building Safety codes.

REGULAR AGENDA

TU2020006	Amadio Property (Cont. from 3/19/20)	District 5
Applicant:	Hannah Blead, Withey Morris PLC	
Location:	4701 W. Dobbins Rd. in the Phoenix (Laveen) area	
Zoning:	Rural-43	
Request:	Temporary Use Permit for temporary events such as farmers market and other community events	

Vice Chair Ward recused herself from TU2020006.

Mr. Gerard presented TU2020006 and noted this is a Temporary Use Permit (TUP) for farmers market and other community events on 1.41 acres in the Laveen area for a total of 26 event days from April to October of this year. The farmer's market hours of operation would be from 8:00 a.m. to 1:00 p.m., with ten areas for vendors located within the fenced area on the northeast corner of the site. The other 23 events would be considered "farm days" to allow for visitors to access the farm with no outside vendors involved. These event days would fall on a weekend from 7:00 a.m. to 7:00 p.m. Vehicular traffic is planned to access the property from 47th Ave. and travel in a one-way direction, and to exit to the north on Dobbins Road. There is an open

violation case V201901975 for a business operation/farmers markets being run in a rural zoning district. There were an additional 58 support documents and 13 opposition documents received as of writing of the staff report. Some of these documents are from duplicate individuals that have previously commented. The opposition stated concerns with traffic, vehicle and pedestrian safety, amount of visitors to the site at a given time, a business within a residential community, trash left after events, as well as others. The support has mentioned the events being an important part and a benefit for the community, and providing food for the locals. Staff recommends approval of TU2020006 with conditions.

Mr. Gerard read multiple letters of support and opposition received after the distribution of the staff report.

Member Cardon asked on what basis does the Board approve or deny a temporary use permit (TUP). Mr. Gerard said this is different and it does not follow the variance test. You will have to judge a temporary use permit on its own merits of what is presented and what is stipulated.

Mr. Peck said the ordinance does tell you what a temporary use permit is and that should be their guide - Section 1302.3.2. It shall only be approved provided the use does not create adverse impact on surrounding properties or residents, and it's only for a period of time and not on a permanent or long term basis.

Member Schwartz said he heard trash mentioned a lot in some of the letters. This needs to be addressed so they are not leaving the neighborhood in shambles if the project moves forward. We need to understand the type of use of a farmer's market versus a flea market, and the type of events they are going to have. He asked the size of the lot and how many cars can be parked on the site at any one time.

Chairman Loper stated if they are selling items they grew on their property that is allowed in Rural-43 zoning. Under the temporary use permit, what they are selling or doing can be open to anything with stuff brought onto the site. Mr. Gerard said correct, there would be no need for the temporary use permit if they were simply growing produce to sell on site.

Chairman Loper asked if there has been any kind of submittals for a Special Use Permit. Mr. Gerard said they have had an informal pre-application meeting, and he is not sure if they have filed a formal application. The TUP is the subject to a compliance agreement to remedy a violation, either as an exit strategy for the land use that's occurring or to obtain long term entitlement.

Mr. Benjamin Tate said he is with Withey Morris and he is representing the applicant. There is a home occupation permit that was approved in August 2018 to convert a detached garage in the rear of the house to a commercial kitchen to allow for baking and selling of pies. This is the home to Amadio Ranch owned by Eric and Christine Amadio. After purchasing the property they started farming the land for their own food and enjoyment. There was a desire for fresh, organic, homegrown produce in the area, and they were producing more than they could consume themselves. A few years ago, they opened their farm to see if an occasional event would help bring the Laveen community together. They found the people love these free events. Families and children predominated the attendees and love to come to the farm and pick vegetables. They allow only handcrafted local vendors to sell products at the farmers market. After the outbreak started, people in the Laveen community started a pantry to donate items for people in need and they gravitated to the Amadio's as the natural place for the community

pantry to be located. It wouldn't be possible if it weren't for the Amadio's goodwill. The events are free to attend, and the sales are just enough to cover the cost of hosting them. Mr. Amadio told him on several occasions, "It's hard to describe the addictive nature to bring joy to the people." This proposal is for a Temporary Use Permit to allow two types of events, farmer's markets and farm days. They are only proposing three dates of farmer's markets, May 16, June 6 and October 24. Farm days would be weekends in May, June and three weekend days in October. The permit is only temporary and it provides the Amadio's opportunity to demonstrate these events can work and meet all the requirements and concerns the neighbors have expressed. At the farmer's markets they'll only be 25 to 50 people in attendance at any given time. Most families come and go in a 20 to 30 minute span. The most considerable change is the parking to provide 13 on-site parking spaces in addition to the overflow parking on 47th Avenue, and the vendor parking is on-site behind the house. The farm days are much smaller events, and it is an opportunity for families to wander the farm, see the crops, and interact with the animals, and pick some vegetables from the garden or a peach from the orchard. It is a small event with no more than 10 attendees at any given time. There were some concerns expressed with the parking and traffic. There are 13 on-site spaces and overflow parking on 47th Avenue with 39 legal on-street parking spaces. There will be a dedicated entrance from 47th Avenue and exit on Dobbins Road with a driveway of 4-inch gravel over 95% compacted subgrade which will help with any dust concerns. The ADA parking space will be 6 inches concrete over 6 inches of prepared compacted subgrade, and all parking spaces will be 9 feet wide and 18-1/2 feet deep. They presented this to the Laveen Citizens for Responsible Development (LCRD) meeting on March 2 and that board unanimously approved this same proposal. Fifty-two letters of support were sent to the County in March and 58 more were submitted in April. These support letters are coming from those that live in the Laveen community which shows the significance and how important these events are to the community. The solutions for traffic, congestion and safety is to have a dedicated ingress from 47th Avenue and egress to Dobbins Road. Traffic guards to ensure orderly traffic movement at the farmer's markets, and coordination with Phoenix Fire Station located across the street. As far as dust concerns, on-site parking and the driveway will be 4-inch gravel over compacted sub-grade. An addition of 13 parking spaces on-site will accommodate the events they are proposing. The flyers will encourage more carpooling, walking and biking to the events. There will be on-site portable toilets located on the site. The other concern was trash, they will have hourly walk-throughs for trash and a dedicated clean-up at the end of the events with multiple trash cans available on-site. The temporary use permit will give them a limited number of events until they have a permanent solution in place. They did have a few informal meetings and have not submitted a formal application at this time. The TUP allows them to demonstrate these revamped and reconfigured improvements can work for both the County ordinance and the community. When we do come back for an SUP we would prove that this concept can work, and it would allow the Amadio's to continue hosting these events. People are finding how important local produce and resources can be when the supply chains are disrupted in grocery stores. The farmer's markets and farm days will benefit the community and the sales of these events barely allow them to break even. They sell their pies and produce at the larger farmer's markets around the valley where they make the majority of their money.

Chairman Loper asked if Eric or Christina Amadio wishes to speak. Mr. Tate said no, they do not wish to speak.

Member Personne said she is concerned with trash, traffic and parking, as she didn't see them listed in the stipulations. She asked if they have worked with staff to formerly document those in

writing. Mr. Tate said there are some listed in the staff report, and asked which she concerned about.

Member Personne said it says one patrol officer or security guard per 500 people, and asked does that mean you have to have 500 people in order to have one? The other was traffic control, and she would like to see it more specifically defined. Mr. Tate said in regards to trash, they can propose the applicant shall provide hourly trash clean up, consistent walk-throughs and canister every 20 feet of space.

Member Personne asked if he can clarify traffic control and security. Mr. Tate said he believes there was something already in the stipulations. Member Personne said there is something under Access to Event but she did not know how many, or if it's only as needed. Mr. Tate said the traffic coordination would only be needed for the farmer's markets and would not be needed for the farm days. The 13 parking spaces provided would be adequate for the farm days. We can have one dedicated traffic guard for every farmer's market event to help direct traffic in and out of the event.

Member Schwartz said he still is not comfortable with security and traffic. He asked how you can guarantee the 25-50 people at any given time. Mr. Tate said this is open to the public and it would be hard to guarantee the number of people. The numbers provided are based on past events and these numbers are what we are projecting to have.

Member Schwartz said they would need two people for traffic control and an off-duty officer to count the number of people on-site, so there is no more than 50 people since it is a small site. It is not fair for the neighbors to feel they are being overrun at any one time with a massive amount of people attending the farmer's markets. It is a great use and we should be encouraging it. We can add something to have a person at both entrances and an off-duty officer to account for number of people, and that is how you control and fulfill your proposal. If he is to support this he would like to see those assurances in place. Mr. Tate said they are in agreement with that stipulation if they want to add that in the conditions of approval to have one traffic guard at the ingress and one traffic guard at the egress for the farmer's markets, and to have one off-duty security officer or an off-duty police officer for each farmer's market.

Member Schwartz said he is not comfortable with a security guard he wants an off-duty police officer that is counting people. This is about certainty and trust and the community should have this. We believe in our law enforcement either they are on duty or off duty. Mr. Tate said they are in agreement and they could add that to the conditions of approval.

Member Cardon said he shares the same concerns that were expressed, and he appreciates the applicant addressing these concerns. He would refrain from changing any more stipulations until we hear from the opposition.

Chairman Loper said he has one person that registered opposition that does not wish to speak, and 31 people in support that do not wish to speak. He also has a list of people that do wish to speak.

Mr. James Shope said he is here speaking in opposition, and a lot of the support letters are form letters and if they would have done individual letters which take time if they really care. The property size is less than 1-1/2 acres, and with all the buildings on the site you have three-quarters of the land that could be utilized and a portion of that would be gone with all the vendors up

front, so that is a half-acre that is actually farm land. There was no mention of a hand washing station, or using hand sanitizers. There is a pool on the property and a child could wonder around the property, so there should be a 7-foot barrier around the pool. They need to be clear about signage and that should not mean putting his hay wagon back on Dobbins Road, or his 1-1/2 ton truck with a sign on it. This is not going to help the community that much, because there is a church at 51st and Dobbins that have produce days for the community. He was concerned about how many people will be attending this, and with the first application it said there was going to be 300 people attending these events.

Member Cardon asked Mr. Shope what are the adverse impacts with this request. Mr. Shope said he moved from the city to Laveen 40 years ago, and this is turning into a commercial business that's temporary in the beginning. This property was owned by Mr. Roy Cheatham and he put in a deed restriction to prevent this from happening. He is hoping he and the neighbors don't have to go civil, but it may take that approach if this thing goes forward.

Ms. Amy Trusler said she also submitted a letter and she will try not to repeat what was said. As a community member and being involved in many events at the farm, she would like to give her full support. A lot of the issues can be resolved if brought to the Amadio's, they are always happy to make things right. As far as the trash pick-up, she and several members of the community are available to help pick up the trash up, and she doesn't see it as a problem. The Amadio's don't do this for profit, and adding all those restrictions she is hoping it doesn't squeeze them out. This is a great thing for the community and it has been a huge asset in her life and others in the community. The Amadio's will make sure it is safe for their neighbors and she hopes it will continue.

Ms. Stacey Dodd said she also sent in a letter. She is from Colorado and grew up going to farmer's markets and would can produce. She doesn't have much family around her in Arizona, and money is tight for extra things, and to take her kids to something that brings a part of her childhood to them. They ride their bikes there, and get to visit with neighbors and the community. It is an amazing community event. She doesn't see trash after the event, and she usually sees people picking up the trash to keep Laveen beautiful. This is not a hindrance, it is a place that makes things special.

Mr. Michael Jones said he is a retired civil engineer and Marine officer and he lives within walking distance from the farm. He has known Eric Amadio for many years and has watched him put this all together. This is something he started to get rid of fruits and vegetables, and then it became this community event. This is what the community wanted to come to the farm with their family and kids and have a good time. Now that it has progressed, they are trying to comply with the zoning regulations. He reduced the vendors, and it will be a lot safer with the parking spaces, and it is a great traffic plan, plus there's a lot of off street parking. He has never had any trouble getting in and out of the place. The kids are always having a great time, and it is a part of what he moved to Laveen for.

Mr. Michael Dolny said the farmer's market is community based and it is free to the public with a variety of vendors selling handmade wares, along with the fruits, vegetables and pies. Plus a lot of food trucks. It is a safe and pleasant event and it makes him feel better when attending and it is within walking distance. The Amadio's are great members of the community and they give more than they receive. He is asking the Board to support this request.

Ms. Melissa Wooden said she also wrote a letter of support. She has three children, and it's been a huge blessing for her family to spend time at the farm. She has never felt there's been a safety issue at the farm with traffic. People are very aware of the traffic and vehicles, and it is a responsibility as a parent to know the whereabouts of your kids. Because it is a local event, people are aware and are cautious of what they are doing. People do come and go and they are usually there for 30 minutes. To have large numbers of people at one time is unrealistic. This is a huge blessing for her family and a great benefit to the community which helps bring them together.

Mr. Jeff Hale said he lives three houses south of the Amadio's, and 47th Avenue is a very wide street. People are a lot safer when they see the cars parked there. He has some people park on the side of his own house, and he is concerned with the trash but it's not from the Amadio's. He has seen liquor bottles and fast food bags that are thrown on 47th Avenue. The trash is not going on at the farm. He sees people going to the events are happy, and love the area, and enjoy the events.

Mr. Stephen Reid said he and his wife support what the Amadio's are doing for the community. His wife has lived in Arizona for several generations, and he moved from Dublin, Ireland in 1997. In 2015, they decided they needed a change and moved some place more open in the farming village of Laveen. The community has experienced massive growth over the past several years, and the Amadio's have been providing essential services with fruit pies, and a community pantry and library. The farmer's markets have brought people together where it is essential to bring the neighbors together. He supports the temporary use permit and encouraged the Board to go to the farm to see what it's like, and they will love it.

Mr. Dan Penton said he is the president of the Laveen Community Council and served on the Board for Laveen Citizens of Responsible Development. He is speaking as a citizen of Laveen, and he expresses his full support and admiration of what the Amadio's are doing. During unstable times and massive unemployment, they wanted to start a food pantry and within hours they were able to secure a shelving unit, and in a couple of days the pantry was fully stocked and operating in the Amadio's driveway. Where there's been an overwhelmingly amount of community support. The farm gives healthy food options for the community and it fills in the gaps where normally there wouldn't be those healthy options. This is considered an essential business. This gives people a chance to get outside and enjoy some fresh air and not to worry about everything that is going on in the world. He appreciates all the letters of support and the letters of opposition, because without the opposition statements we cannot make these programs better and to know what the community wants. He is in total support of the Temporary Use Permit.

Mr. Tate said he has drafted the changes to the stipulations they have discussed in relation to trash, security, and traffic. Many of the concerns were based on what occurred with previous events and this is a response to those concerns. These events will be better controlled, better organized, and better regulated. This is not an everyday occurrence, we are requesting 26 events over a six month period on a limited number of weekends. They are asking the Board to approve this Temporary Use Permit with the additional stipulations.

Member Cardon said they have done a wonderful job on addressing the concerns and to not have adverse impacts on surrounding residents. The only thing he would add is parking to only be allowed on site or on 47th Avenue.

Member Schwartz said he likes that idea, and it would be up to them to enforce that through the traffic control and how will they be able to manage that. Member Cardon said he's not looking to require any more traffic control. The residents could file a violation if they are violating the stipulations.

Ms. Catherine Miranda said she is speaking in support of the Amadio Ranch Temporary Use Permit. She has lived in Laveen for 7 years and over 50 years in the district, and has always known Laveen to be a farmer's community. In the legislature she served on the agriculture and water committee, and the Amadio farm is one of the few places to learn about farming, agriculture and land use. She understands the importance of preserving that. It is important to maintain and protect the farm life because we are rapidly watching our farms disappear. With the 202 just coming in and much needed growth is on its way, but we have to be careful that growth doesn't eliminate our farms. This is very important to the Laveen community and it is a part of that huge culture in Laveen. Not only do they provide fruits and vegetables, but they have truly been there during this pandemic crisis. With a lot of the families this is their only food source, and they opened up the food pantry and a lot of her neighbors rely on that farm. She strongly supports the Amadio Ranch Temporary Use Permit.

Chairman Loper said he grew up in rural Arizona and he loves these type of uses. He is familiar with Laveen and the LCRD. He likes what was said, a temporary use permit is how they will operate going forward and if they are successful then maybe they get their next stage of their zoning or maybe they don't. It sounds like the people that live right near it are in support, so they must be doing something right, but some that live near it don't like it. He believes the TUP is the perfect vehicle for something like this, it has specific conditions with a specific timeline. It has opportunity for further input from the public should they choose to go further with other entitlements in the future. He is in support of the suggested stipulations from the applicant and the board members, except for the counting of the people. He can't imagine the difficulty doing that, and to ask that of an off-duty police officer. The people in the area walk there and bike there and it will be extremely difficult. He is in agreement of the traffic management, but adamantly opposed of trying to keep track of who is coming and going.

Chairman Loper said October 18 is the day the TUP expires, and asked does it expire the end of the business day or at midnight, or we need to extend it a day. He doesn't want someone thinking they are not supposed to be in operation on that date when clearly they are.

Member Schwartz said he is the guy that says to ask for permission and not ask for forgiveness. We shouldn't have uses operating before they get approval. In this case with everything going on, he does believe it is a good use. His is only going to support this if the necessary checks and balances are in place. One is the officer and the two traffic people, and to make sure there is a pool barrier around the pool. There is a sunset date that is clarified and a 47th Avenue parking stipulation from Member Cardon, and the capacity issue. It is a matter of two things, if it is a promise then they need to deliver on a promise. That is showing the community they aren't going to exceed the number of people at one time, and there needs to be a way to follow through on that. We have building regulations for the maximum amount of people for fire standards and they have to count them, and this is no different. It shouldn't be a burden to them to do this like any other business with a building based on the fire code. He will only support it if there is a capacity to protect those neighbors that are complaining about the number of people that are in there. He wishes the Amadio's the best of luck, and he thinks they are doing great things for the community. He grew up in a farming community in Nebraska and it is important to teach the next generation, but we need measures to protect the community around it. Mr. Peck said if

you put a stipulation that no parking can occur on 47th Avenue, it cannot be enforced by the police. The police can only enforce ordinances, and they cannot enforce stipulations in zoning. As far as the occupancy and your analogy to the fire code does not work. Maricopa County doesn't have a fire code and we just use the state's fire code. Buildings with capacity limits have to be backed up by a municipal ordinance that authorizes somebody to shut down a building in order to remove people in the event the building exceeds that. Those numbers are based on the rating of the building. Having a police officer out there won't have the ability to enforce any stipulations. 47th Avenue is a public street with no parking restrictions.

Member Schwartz said he understands that it's not enforceable, but the fact that somebody is there monitoring things and saying you cannot come in unless somebody leaves. It would be somebody with authority and it means somebody with a badge. The Amadio's need to be policing things as well and telling people you can't park there. Mr. Peck said they don't have the authority to do that either, it is public parking.

Member Schwartz said they need to start policing it so they are not in violation. They promised they will be telling people not to park on 47th Avenue.

Chairman Loper said that is not how he heard the added stipulation. There are not enclosed structures here where a fire code would apply to.

Chairman Loper asked Member Cardon to restate the parking suggestion. Member Cardon said that they only park on site or on 47th Avenue, and not on Dobbins or in the neighborhood.

Mr. Gerard read the revised stipulation, 'c' - This Temporary Use Permit is authorized for events on the following dates (all in year 2020): The farmer's market events are scheduled to occur from 8:00 a.m. to 1:00 p.m. on May 16th, June 6th, and October 24 with a total of three events. Farm Days events will run 7:00 am.-7:00 p.m. on April 18, 19, 25, 26; May 2, 3, 9, 10, 17, 23, 24, 30, 31; June 7, 13, 14, 20, 21, 27, 28; and October 16, 17, and 18. There will be a total of 23 Farm Days events. Changes in proposed dates shall be provided to staff at least two (2) weeks in advance of the change in event dates. This Temporary Use Permit shall expire on October 19, 2020. The Temporary Use Permit letter must be visibly displayed at the front of the property at all times. Failure to meet this display requirement shall result in revocation of the Temporary Use Permit if a Zoning Citation is issued. Then add to stipulation, 'o.1' under security, the applicant shall provide at least one (1) off-duty law enforcement officer for each farmer's market event to provide event security and to count attendance. Then add to stipulation 'o.2', the applicant shall provide two traffic guards for each farmer's market event to direct traffic, one traffic guard at ingress from 47th Avenue and one traffic guard at egress on Dobbins Road. Under Refuse 'o.6', for farmers markets, the applicant shall provide trash receptacles every twenty (20) linear feet within the event space and conduct hourly litter pickups on site and in local vicinity. For all events, trash pickup shall occur hourly during the events and after each event. Add 'o.9' Parking, offsite event parking is prohibited except along 47th Avenue.

Chairman Loper asked the farmer's markets can occur on October 24? Mr. Gerard said we would want that expiration date to read October 25.

Member Schwartz said he is okay with the language. He would like something added in their about the pool barrier. Kids wander off and he doesn't want them in an area where they are unsafe.

Chairman Loper asked staff if there is a pool barrier and a county ordinance that requires it. Mr. Gerard said there is a pool barrier requirement in the zoning ordinance.

Mr. Peck said where it states to notify staff two weeks in advance if these dates change, especially with the May dates, they only have to notify you if they add any dates. So you don't have that burden on staff. Mr. Gerard said they usually have that type of stipulation in there, they are only concerned about adding any new dates, or changing a date. They are not worried about a cancelled date.

Mr. Peck said with the trash pick-up every hour, it should be clarified that the trash receptacles bags should be replaced every hour. Mr. Gerard said it wasn't the receptacles themselves, but canvassing the area and picking up litter.

Chairman Loper asked if the applicant agrees with the suggested stipulation language. Mr. Tate said yes. If you look at the aerial map, there are two fences separating the pool from any areas the public would be. There is a fence separating the orchard from the back yard, and then there is a fence that actually surrounds the pool. They are in agreement with all of the revised language, and his only concern is the parking in the neighborhood. We can put up signage to let people know the only place to park is on site or on 47th Avenue. If individuals decide to ignore the Amadio's and park in the neighborhood and refuse to move, the Amadio's could potentially be in violation for no fault of their own despite their best effort.

Member Schwartz said maybe we change the language to say, any attendees of the farmer's market park on 47th Avenue and they will do their best effort to have somebody canvassing the area and ask people to kindly move.

Mr. Gerard said the stipulation language prohibiting parking except for 47th Avenue works, and they can coordinate with the neighbors to have signs that say no event parking to the entrance of the side streets.

Chairman Loper asked if the applicant is in acceptance of that language. Mr. Tate said yes we agree, and we want to limit offsite parking to 47th Avenue but didn't want to have an issue where it couldn't be enforced.

BOARD ACTION: Member Schwartz motioned to approve TU2020006 with conditions 'a'-'o' with modifications to conditions 'c', 'o.1', 'o.2', 'o.6', and inclusion of 'o.9'. Member Personne second. Approved 4-0-1 (Ward).

- a. Development of the site shall comply with the entitled site plan, "Amadio Farms Temporary Use Permit – Parking Plan", stamped received February 24, 2020, consisting of one (1) sheet, except as modified by any condition identified herein.
- b. Use of the site shall be in conformance with the Narrative Report, entitled "4701 W. Dobbins Road Temporary Use Permit Narrative", stamped received March 27, 2020, consisting of four (4) pages, except as modified by any condition identified herein.
- c. This Temporary Use Permit is authorized for events on the following dates (all in year 2020): **The farmer's market events are scheduled to occur from 8:00 a.m. to 1:00 p.m. on May 16th, June 6th, and October 24 with a total of three events. Farm Days events will run 7:00 am.-7:00 p.m. on April 18, 19, 25, 26; May 2, 3, 9, 10, 17, 23, 24.**

30, 31; June 7, 13, 14, 20, 21, 27, 28; and October 16, 17, and 18. There will be a total of 23 Farm Days events. ~~May 16, June 6, and October 24, with start time of 8 a.m. and end time of 1 p.m. as well as April 18, 19, 25, 26; May 2, 3, 9, 10, 17, 23, 24, 30, 31; June 7, 13, 14, 20, 21, 27, 28; and October 16, 17, and 18, with a start time of 7 a.m. and end time of 7 p.m.~~ Changes in proposed dates shall be provided to staff at least two (2) weeks in advance of the change in event dates. This Temporary Use Permit shall expire on **October 25~~18~~, 2020**. The Temporary Use Permit letter must be visibly displayed at the front of the property at all times. Failure to meet this display requirement shall result in revocation of the Temporary Use Permit if a Zoning Citation is issued.

- d. The following Engineering conditions shall apply:
1. Traffic Control is the responsibility of owner/applicant.
 2. No road closures/obstructions shall be permitted; and no signs or any other event related object shall be placed within the public right-of-way unless a Special Events Permit is procured from the MCDOT Permitting Branch. Owner/applicant shall refer to Chapter 5 of the MCDOT Traffic Control Manual: Work Zone and Special Events.
 3. Parking on the east side of 47th Avenue is subject to approval by the City of Phoenix.
 4. Upon abandonment of the temporary use, the site shall be restored to its existing condition.
 5. Approval for the temporary use is at the discretion of the Maricopa County Board of Adjustments.
- e. The property owners and their successors waive claim for diminution in value if the County takes action to rescind approval due to noncompliance with any condition.
- f. Approval of the Temporary Use is not an approval to construct. Prior to construction, development or use of the property, the applicant/owner shall obtain all necessary clearances and construction permits.
- g. All development and engineering design shall conform with the Drainage Regulation, Drainage Policies and Standards and current engineering policies, standards and best practices at the time of application for construction.
- h. Structures erected pursuant to an approved Temporary Use Permit shall not require a building permit if standing for a period not to exceed 96 contiguous hours. The responsible party shall provide the Affidavit of Structures for Temporary Events documentation, as specified in the Temporary Use Permit that said structures were erected and maintained subject to all applicable building safety codes and manufacturer's specifications. The documentation shall be provided to the Department within two working days following end of the special event to be filed with the Temporary Use Permit. Failure to provide the required documents will

render the Temporary Use Permit null and void and constitute a zoning violation in accordance with Chapter 15 of the Maricopa County Zoning Ordinance.

- i. The Temporary Use must be removed at the end of the approved time period. All temporary structures must be removed, and the site returned to its original condition or better upon completion of each event. No structures shall be erected more than **72 hours** before the start of the event from which this permit is issued. All structures shall be removed within **72 hours** following the end of the event for which this permit is issued.
- j. Prior to any event, food concessions shall be permitted by Maricopa County Environmental Services Department (MCESD).
- k. Alcohol is not permitted on site unless a Liquor License is obtained through the Clerk of the Board.
- l. The applicant or property owner/s will be responsible for contacting their applicable emergency and fire protection agency for medical/emergency services and fire protection.
- m. A Temporary Access-Track Out permit for the driveway must be obtained prior to any use on the site with Maricopa County Department of Transportation.
- n. Upon expiration or termination of the Temporary Use Permit, the temporary use shall cease. Any temporary or mobile structures shall be removed **within ten (10) days** of said expiration or termination. Any alterations to the principal or accessory buildings or structures should be issued permits within **ten (10) days** and shall be completed and finalized within 30 days of expiration.
- o. The Temporary Event or Special Event shall adhere to the Board of Supervisors Resolution, December 1980 as applicable which establishes guidelines and conditions for temporary uses. The following conditions shall apply:

Security

- 1. At least one patrol officer or security guard for every 500 persons in attendance. **The applicant shall provide at least one (1) off-duty law enforcement officer for each farmer's market event to provide event security and to count attendance.**

Access to Event

- 2. The applicant shall provide adequate ingress and egress to the premises and parking areas. Traffic guards shall be employed to insure orderly traffic movement and relieve traffic congestion onto public rights-of-way. **The applicant shall provide two traffic guards for each farmer's market event to direct traffic, one traffic guard at ingress from 47th Avenue and one traffic guard at egress on Dobbins Road.**

Water and Wastewater

3. The applicant shall provide an ample supply of water for drinking and sanitation purposes. The quality and quantity of water and location of facilities shall be approved by the Maricopa County Environmental Services Department.
4. Supplemental toilet facilities must be provided for every special event. At least one closed toilet facility marked MEN and at least one closed toilet marked WOMEN shall be provided. A toilet for each 40 males and for each 40 females expected to attend the event may be required; the number and location of toilets shall be approved by the Maricopa County Environmental Services Department.

Concessions

5. Concessionaries must be licensed. The quality and quantity of food and location of concessions shall be approved by the Maricopa County Environmental Services Department.

Refuse

6. At least one trash can with 32 gallons capacity for every 25 persons expected to be in attendance shall be provided. Trash and refuse disposal shall be pursuant to procedures established by the Maricopa County Environmental Services Department. **For Farmers' Markets the applicant shall provide trash receptacles every twenty (20) linear feet within the event space and conduct hourly litter pickups on site and in local vicinity. For all events, trash pickup shall occur hourly during the events and after each event.**

Outdoor Lighting

7. Temporary uses conducted after dark shall provide lighting to insure public areas are adequately illuminated. All outdoor lighting shall be shielded so that it is directed downward below the horizontal plane of the fixture and does not trespass onto adjacent properties.

Camping

8. No overnight camping is allowed with this Temporary Use Permit.

Parking

9. **Offsite event parking is prohibited except along 47th Avenue.** The applicant shall coordinate with neighbors for temporary signage along other streets to read "no event parking" or similar.

Vice Chair Ward rejoined the hearing.

BA2020005
Applicant:
Location:
Zoning:
Request:

Reid Property (Cont. from 3/19/20) **District 2**
 Chris Stanford, Mountain Top Builders, LLC
 425 N. Higley Rd. – Higley Rd. and University Dr. in the Mesa area
 R1-6 SC
 Variance to permit:

- 1) Proposed rear setback of 16' where 25' is the minimum permitted

Mr. Gerard presented BA2020005 and noted the request is to reduce the rear yard setback to 16', where 25' is the minimum. Located on the northeast corner of Higley Rd. & University Dr. in Dreamland Villa. The front yard of the home is along the southern portion of the lot, and the residence was constructed in 1965. The applicant is proposing to retrofit an existing rear patio along the east wall of the home into a new kitchen and bedroom with an attached bathroom. The proposed attached bathroom will encroach 5' within the rear yard. The applicant has failed to demonstrate that there is a peculiar condition facing the property, because the existing residence conforms to the building setbacks and offers space to expand the home to the east.

Mr. Chris Stanford said he is the contractor for the project. The problem we are having because the way the house is built on the lot, the south side is considered the front yard and the garage faces Higley. The whole house layout and orient is to the Higley side. There's a septic in the back, and they want to build an addition to move their elderly parents in and to take care of them. This is creating a hardship for his client.

Member Schwartz asked is there any way to move the septic tank so they won't need a variance. Mr. Stanford said then they would have to hook up to city sewer and that cost would be prohibited to the clients. The way the layout is with the room, it gets really convoluted to do this addition and trying to come up with a different design.

Member Schwartz said there needs to be other options that need to be explored. If the septic tank is in the way there may be a different alternative. They could move the addition to be in conformance.

Chairman Loper said you would have to pull out the septic, and do a sewer connection. He believes that is a hardship to have the sewer field there.

Member Personne said she agrees with Chairman Loper that the location of the septic is a hardship.

Member Schwartz said we should be encouraging everybody to get off of septic and get on to our public sewer systems. The septic didn't create the hardship, and it could be expensive to do it. They can redo this and design it to stay in conformance. It's not or purview to grant something based on a hardship because it will cost them more money.

Chairman Loper said it's not necessarily the cost because the cost is not a consideration. He views the septic system as any physical object, and we don't have any evidence that this is not an operational system.

BOARD ACTION: Member Cardon motioned to approve BA2020005 with conditions 'a'-'c'. Vice Chair Ward second. Approved 4-1 (Schwartz).

- a) General compliance with the site plan stamped received February 18, 2020.
- b) Failure to complete necessary construction within one year from the date of approval, shall negate the Board's approval.

- c) Satisfaction of all applicable Maricopa County Zoning Ordinance requirements, Drainage Regulations, and Building Safety codes.

BA2020007	Davis Property (Cont. from 3/19/20)	District 4
Applicant:	Kenneth C. Bartels	
Location:	14503 W. Osprey Dr. – Osprey Dr. and White Rock Dr. in the Sun City West area	
Zoning:	R1-7 SC	
Request:	Variance to permit: <ul style="list-style-type: none">1) Proposed rear (west) setback of 21-feet where 25-feet is the minimum permitted	

Mr. Gerard presented BA2020007 and noted the request is for a proposed rear setback of 21-feet where 25-feet is the minimum permitted to allow a library addition. The request fails to meet the statutory test for variance approval as the applicant has failed to demonstrate a peculiar condition/physical hardship. There appears to be an alternative area to develop the addition in the area of the uncovered patio facing White Rock Drive. We received one support letter from an adjacent property owner, and a letter from Sun City West HOA stating they have no concerns with the variance request.

Ms. Donna Andersson-Davis, the applicant said they didn't realize when they purchased the house that part of the living room used to be the half-moon shape porch. They will have to reconstruct that part of the living room. The inside of the property is a huge courtyard and all of the rooms go out into the courtyard. The white roof on the aerial covers the open patio, and we want to go out four feet to enlarge the area to build a library. It would only be 21 feet away from the neighbor's property line, and the neighbor has written a letter that he has no problem with this request. There will be even more landscaping on that side and he will never see it. The CC&R's of Sun City West said no two-story additions and it should conform to the existing house. All we are asking is four feet.

Chairman Loper asked is this considered the rear yard since the narrow part is off of the side street. If White Rock Drive were the side frontage they could do this extension what is considered the side yard. Mr. Gerard said there is a driveway on both sides and it is a corner lot, and the west is the rear and the bottom is a street side.

BOARD ACTION: Vice Chair Ward motioned to approve BA2020007 with conditions 'a'-'d'. Member Cardon second. Approved 5-0.

- a) General compliance with the site plan stamped received March 4, 2020.
- b) All required building permits for proposed development shall be applied for within 120 days of the hearing date unless otherwise directed by the Board. Failure to apply for any required building permits within the specified time, or to complete necessary construction within one year from the date of approval, shall negate the Board's approval.
- c) Failure to complete necessary construction within one year from the date of approval, shall negate the Board's approval.

- d) Satisfaction of all applicable Maricopa County Zoning Ordinance requirements, Drainage Regulations, and Building Safety codes.

BA2020008	Rahman/Islam Property (Cont. from 3/19/20)	District 1
Applicant:	Mizan Rahman	
Location:	24430 S. Cooper Rd. – South of Cooper Rd. and Cloud Rd. in the Chandler area	
Zoning:	Rural-43	
Request:	Variance to permit: 1) Proposed lot widths of 135' where 145' is the minimum permitted	

Mr. Gerard presented BA2020008 and noted the site is located at 24430 S. Cooper Rd. – South of Cooper Rd. and Cloud Rd. in the Chandler area. The proposed lot widths of 135' where 145' is the minimum permitted. The current parcel meets the RU-43 zoning district development standards. The applicant is proposing to split the parcel into 2 separate parcels. The resulting parcels would not be able to meet the required minimum 145' lot widths. There is one email of opposition and one email of support received. The opposition email is from The City of Chandler, they expressed opposition to an earlier request for a side-yard setback. The applicant has since removed that portion of the request. The applicant has failed to demonstrate that there is a peculiar condition facing the property because the current parcel and existing development meets the Rural-43 development standard requirements. Splitting this lot would be a self-created hardship, thus a variance is not warranted.

Chairman Loper stated the request is so they can split the lot down the middle. Mr. Gerard said both lots would be substandard if they create a split and an illegal land division.

Mr. Peck said if they were to split the lot with 135 feet even with your granting of the variance it is questionable whether that would be a legal lot split or not. In order to create a lot split, the resulting lots all must meet the underlining conditions of the zone, and these would not. Even though there are variances that means they meet the zoning and can get a permit, but under the statute it is questionable that the lot split would be legal.

Chairman Loper said their proposal is to split it east/west, but it looks like there would be other options to create two lots like north/south. Mr. Gerard said there is more than two net acres for them to be able to have the lot area, but he doesn't know if they split the other direction they may be able to have width. There is not street access if they orient another direction.

Member Personne asked is there another zoning district instead of applying for this variance and can rezone that permits the 135 foot lots. Mr. Gerard said there are other zoning districts, and doesn't believe there would be support for a two-acre residential rezone. It would essentially be a residential spot zoning that is generally frowned upon in the land use policies in the comprehensive plan.

Mr. Mizan Rahman, the property owner said they recently purchased the property in January to live in the heart of Chandler. On the north side there is an older home that was built in 1930 and is 1,500 square feet with a horse stall which will not work for our family. We intend to split the parcel. The City of Chandler took some of the property for Cooper Road, and they gave us two accesses to this property. When we split the property each parcel will have one acre each and it meets the requirements for RU-43, except the lot width is 135 feet. Other than that we fulfill all

the requirements. Our goal is to build a home on one of the acres and then doing something else with the other acre. He doesn't want to destroy that home because it is still livable.

Member Cardon said he understands what he is trying to do, to build a house on the southern portion. He asked are you able to build that home and not split the lot. Mr. Gerard said you can have a primary dwelling and an accessory dwelling unit on a lot in the Rural-43 zoning district as long as they meet the underlining development standards which is 25 percent lot coverage aggregate area under roof. If they were to split with the lot line division somewhere to the north and south lot lines they could meet a 145 feet lot width, but that would require some type of easement to run along the north or south and it may not line up with their existing access on Cooper Road. They have the option of a different orientation or they can have an accessory dwelling unit on the property as is today.

Mr. Rahman said he was thinking on having the smaller home for his mom and dad and would split the lot. Another access road north and south would be difficult since the access is already there from Cooper Road.

Member Cardon said we have to see a peculiar condition or an undue hardship. If he was to enumerate one based on what the applicant said with the limitations based on the property facing Cooper Road and the limitations of the width of 270 feet along Cooper Road. You need to convince the Board there is a peculiar condition and an undue hardship that there is nothing else you can do.

Chairman Loper asked if they have brainstormed with staff over different options. Mr. Rahman said yes, then they had setback issues with one parcel smaller and the other one bigger. We haven't discussed the north/south orientation. If you look at the neighborhood that would be chaotic with how the front yard/back yard would be oriented. The City of Chandler already gave us two points of access, and we already the structure which makes more sense to do a lot split east/west.

Chairman Loper said our challenge is to find a hardship, and he should be hesitant to bring this up for a vote if you have not sat down and looked at all the other options - additional dwelling unit, how to get access, and different lot configurations. Things don't have to be a perfect rectangle. Maybe you can sit down with staff and discuss all of your options and if you feel this is the option you want to go with, at least you explored some other options. He hates for this not get approved.

Mr. Rahman said the north/south option is more challenging then we would have to destroy the structures. We can explore some different options.

Member Cardon said if there are other lots in the area that are already 135 feet that might come into play with the area in general, but he agrees with Chairman Loper to explore other options because it is hard to find a peculiar condition or undue hardship.

Mr. Rahman said he believes there are a few homes in the neighborhood with 135 feet lot width. The hardship is he wanted to build something to enjoy with his family where he can only have one residence on the two acres. He wanted to have a house for his mom and dad, and one for his family. If they do a north/south split then the structure can't be used.

Member Schwartz said the other board members are trying to help you, and you can possibly come up with other information you may not have today to come back and convince us otherwise. You don't want a denial because that means you can't come back for a year. Mr. Rahman said he will work with staff and take the information the Board has provided.

Chairman Loper asked is 30 days sufficient time to continue this case. Mr. Gerard said he suggests a 60 day continuance to the June meeting.

Mr. Rahman said 60 days would be great to give him time to work with staff.

BOARD ACTION: Member Cardon motioned to continue BA2020008 to the June 18, 2020 hearing. Vice Chair Ward second. Continued 5-0.

BA2020009	McAllister Property (Cont. from 3/19/20)	District 4
Applicant:	Francis & Trina McAllister	
Location:	24408 S. 140th Way, - Cloud Rd. & Lindsey Rd., in the Queen Creek area	
Zoning:	Rural-43	
Request:	Variance to permit: 1) Proposed casita street side (north) setback of 25' where 45' is the minimum permitted	

Mr. Gerard presented BA2020009 and noted this is a proposed casita with a north street side setback of 25' where 45' is the minimum permitted. The applicant wants the proposed structure to have elderly parents live in close proximity to the single-family residence. The request fails to meet the statutory test for variance approval and there is no peculiar conditions presenting a physical or topographical hardship. It is a large lot with open yard areas, and viable alternatives exist to revise the layout and meet the zoning requirements and meet the setbacks. The street side is on the north lot line, and this is a large concrete ditch and not used to street access to any property. All surrounding parcels have street access on other lot lines.

Ms. Trina McAllister, the applicant said she wants to build a 1,000 foot casita for her elderly parents to live. She does realize she has a big lot and there are additional locations to place the casita, but because it is four elderly people and she wants them to come into the home and to make it easy for them to access the home. If she were to put it into the pasture, it would be a hardship for them to get through the pasture and go through the back gate, across the lawn and up the three steps and then through the patio and into the house. That becomes prohibitive and the goals she has for this structure to make them feel welcome, and give them easy access into the home to be part of our lives. Instead of being in a home tucked in the back where we check on them once in a while. As far as placement, that road is not used for anybody's primary access to their home. Many of her neighbors have accessory structures all along this road where we all have a wall that's next to that ditch. A half of dozen or so accessory structures back up to that wall by a foot or two, and she is asking to stay three feet from that wall. It's a side yard setback and because of that wall, it looks like it's the front. The neighbors to the north of them have tall walls, and it won't encroach on anyone. We are just asking to get a little closer to that wall to put the casita back there and the door would face south and they can make a little sidewalk to the patio and then a threshold to get into their home.

Chairman Loper asked if the street on the north didn't exist this would be a side yard with a setback of 30 feet. Mr. Gerard said a detached accessory structure would have a three foot side yard setback.

Chairman Loper asked have we ever required a vehicular non-access easement as a condition for a variance. Mr. Peck said if there is a vehicular non-access easement on the north wouldn't that be a side yard.

Mr. Gerard said yes we have done that has a condition before. Mr. Peck said then they wouldn't need a variance.

Mr. Gerard said it may be a peculiar condition that the street does not provide access to any residential property and it appears to be a service road for the ditch. Ms. McAllister said it is an irrigation ditch from the Roosevelt Irrigation District. It is on our property the full length from east to west on the south side of the road. We did look into getting a non-vehicular access easement, but we were told it won't do us any good. We will have our parent's park in front of our house and a sidewalk to access the casita.

Mr. Peck asked do you know if they have the right-of-way for the ditch. Ms. McAllister said she does not know, but they do not want us building a driveway over the ditch.

Mr. Gerard said the street in the neighborhood does not connect the irrigation ditch service road. Mr. Peck said he is trying to find out whether there is a road to the property of the Roosevelt District, and if the road is the right-of-way of the County in which case their property would not actually front on the road and it wouldn't be a street side. Mr. Gerard said it is not a County roadway.

Vice Chair Ward asked is the access road to the irrigation ditch north of the ditch. Ms. McAllister said yes, if you build south there is still access to the ditch. We can't build out there because there is a wall and the ditch is a foot north of the wall, and the road is north of that.

Mr. Peck asked is it your wall or the district's wall? Ms. McAllister said it is her wall.

Member Schwartz asked if the road is their property and if they have an easement over it. Ms. McAllister said correct. Member Schwartz asked where is the property line. Ms. McAllister said in the middle of the road.

Member Schwartz asked staff if that is the property line they used for the setback. Mr. Gerard said wherever the edge of that access easement, we count the setback from that street line. It's not from the lot line it is from the edge of the street line.

Member Schwartz asked if they need time to figure out whether they need a non-vehicular access easement rather than going through the variance? Mr. Gerard said no they wouldn't need time they could pursue a non-vehicular access easement along the edge of that street line or if you determine the nature of this service road is peculiar enough to be considered a street to approve the variance.

Member Schwartz said he is in favor because that is not really a road to access and that would be the peculiar condition to him.

Chairman Loper said there is sufficient hardship based on the road and the orientation of the lot. If it was an accessory structure it could be three feet. There's enough to act on the variance, and if she gets the non-vehicular access easement it would be better.

BOARD ACTION: Vice Chair Ward motioned to approve BA2020009 with conditions 'a'-'c'. Member Schwartz second. Approved 5-0.

- a) General compliance with the site plan stamped received March 3, 2020.
- b) Failure to complete necessary construction within one year from the date of approval, shall negate the Board's approval.
- c) Satisfaction of all applicable Maricopa County Zoning Ordinance requirements, Drainage Regulations, and Building Safety codes.

Member Schwartz left the hearing.

BA2020014	Parish Property	District 4
Applicant:	Timothy Parish	
Location:	10502 W. Camden Ave. – 107th Ave. & Peoria Ave., in the Sun City area	
Zoning:	R1-6 SC	
Request:	Variance to permit: <ul style="list-style-type: none">1) Proposed rear yard setback of 20' where 25' is the minimum permitted	

Mr. Gerard presented BA2020014 and noted this is a request for a rear yard setback of 20' where 25' is the minimum permitted. There are eight letters of support from the neighborhood. It is a corner lot with a rectangular shape and the front of the property is along Camden Avenue facing south and the rear is the north of the lot. The residence was built in 1965. The applicant is proposing to remove the existing rear patio and place a new sewing room with patios in its place, and the new addition will encroach 5' into the required 25' wide rear yard setback. The applicant has failed to demonstrate that there is a peculiar condition facing the property because the shape and configuration of the lot is similar to the majority of the neighboring properties. There are alternatives available, they could remove the proposed northwest patio and shift the sewing room westward while changing the configuration of the proposed addition to stay within the lot's building envelope. Another option is to make the addition as an accessory structure in the rear yard which would meet a three feet setback. The applicant listed peculiar condition/physical hardship financial reasons, but that is not a physical hardship.

Mr. Timothy Parish, the applicant said they will be moving into this property and his wife is and avid sewer, so they are looking to build a quilt room in the back. The property sets at an angle and they are only asking encroach a total of 107 square feet with most of it being patio, and 40 feet of it will be the room itself. Some of the neighbors have 8-foot setbacks and 20 foot setbacks, and none of the neighbors have a problem with it.

Chairman Loper asked if they use the pivot point at the northwest corner of that house and were able to swing it, they would be in compliance all the way around. Mr. Gerard said he believes

so, if the existing residence footprint was laid out so that it was parallel to the street then the residence and addition would fit in the principle building envelope.

BOARD ACTION: Member Cardon motioned to approve BA2020014 with conditions 'a'-'d'. Vice Chair Ward second. Approved 4-0.

- a) General compliance with the site plan stamped received March 16, 2020.
- b) All required building permits for proposed development shall be applied for within 120 days of the hearing date unless otherwise directed by the Board. Failure to apply for any required building permits within the specified time, or to complete necessary construction within one year from the date of approval, shall negate the Board's approval.
- c) Failure to complete necessary construction within one year from the date of approval, shall negate the Board's approval.
- d) Satisfaction of all applicable Maricopa County Zoning Ordinance requirements, Drainage Regulations, and Building Safety codes.

TU2020008	Lunsford Property	District 4
Applicant:	Monique Armstrong	
Location:	35710 W. Papago St. in the Tonopah/Arlington area	
Zoning:	Rural-43	
Request:	Temporary Use Permit to allow for Caretaker's Quarters	

Mr. Gerard presented TU2020008 and noted the request is for caretaker's quarters due to a documented medical concern to allow an RV as temporary living quarters. This is the result of a violation from a previous temporary use permit obtained in 2017. This would extend the TUP out to 2022. The applicant has been advised that developing a mobile home or structure as an accessory dwelling unit that conforms to the zoning ordinance would alleviate the need for an additional caretaker's quarters temporary use permit. Rather continuing to approve a TUP that allow long term residence in an RV. In the staff report there are 13-pages of opposition correspondence and the concerns are excessive junk and trash, unlicensed inoperable vehicles, and pit bulls roaming the neighborhood. There have been non-zoning violations that have been addressed, and the only open enforcement issue right now is the the multiple residence and the temporary residence in the RV.

Member Personne asked if staff has had any conversations with the applicant about mitigations to address some of the complaints in the objection letters from fencing to making sure the dog isn't an issue in the neighborhood. Mr. Gerard said the assigned planner has discussed many options. A lot of the concerns are directly related to this with abatements issues and dog issues. The issues with Animal Care and Control have been addressed.

Chairman Loper said the report says the occupant puts up tents and hangs mannequins from umbrellas, but that isn't a zoning issue. Mr. Gerard said we have a lot of enforcement issues with people private and personal. If something becomes in disrepair we can look at it as junk, trash and debris. Some of these issue aren't zoning violations.

Vice Chair Ward asked is there any type of fencing around the property. Mr. Gerard said he doesn't believe there is any type of solid fencing, but we would have to defer to the applicant.

Vice Chair Ward asked if those are major streets. Mr. Gerard said Buckeye Road is a section line road and will function in the future as arterial, but the other streets are local streets.

Vice Chair Ward asked how far the nearest home is. Mr. Gerard said the homes to the east and southeast are within 300 feet.

Chairman Loper said a lot of the complaints aren't zoning issues, and the recommendation is approval with the conditions, and asked does it still stand? Mr. Gerard said yes. We do have medical documentation for a caregiver of the resident. We strongly urge the applicant to seek a long term housing solution. They can put an accessory dwelling unit on site even in the form of a mobile home to become a permanent solution so they don't have to come back for Temporary Use Permits that can be denied. A lot of the neighbor's concerns are non-zoning related and are neighborhood issues.

Chairman Loper stated you are seeking a Temporary Use Permit for continued care of a family member, and it is documented and you do not have to explain to us what that is. As you know staff is recommending approval of the TUP, and there are a number of non-zoning issues that were mentioned but not germane. It was mentioned you can do away with doing this if you were to do a permanent dwelling on the property, and asked the applicant if they have any long terms plans for that. Ms. Monique Armstrong, the applicant said no not at this time, and they aren't really sure if the TUP will continue to be in use. They were trying to get the family member relocated to California but he needs assistance that he will require there. There are not any long term plans in place as of yet.

Ms. Armstrong said the violation they received was excessive dogs which was taken care of, and asked what other type of the complaints were there. Chairman Loper said they were in the staff report but they are not germane to the temporary use permit. It would be worthwhile for the applicant to take a look at the staff report because it always encourages people to be good neighbors.

Chairman Loper asked if those in opposition are on the phone and wish to speak. No response from either of the registered speakers in opposition.

Member Personne said in one of the opposition letters it mentions that signs were put up on March 2 and were removed by March 3. She is wondering if the posting wasn't up for an appropriate amount of time, or to continue this if it needs to be reposted. Mr. Gerard said it was adequately posted and we have an affidavit of the posting. We can never guarantee the posting stays up every day, but we actually reposted the site on three different occasions. Throughout our jurisdiction applicants, opponents, vandals or the weather take down signage. The fact is, everyone that has registered on the webinar has written in opposition and is aware of the public hearing for this TUP, and it's been adequate public notice.

Mr. Peck said this is the same if someone came in person to a hearing and filled out a speaker's card and then had to leave. Chairman Loper said good point, and it is the same persons that sent in a written comment.

Member Cardon said does a caretakers quarters create an adverse impact on surrounding the property or residents, however the person going in there may be difficult for the neighbors.

Vice Chair Ward said she has a concern that the surrounding area neighbors have taken the time to issue a complaint.

Chairman Loper asked how much of these complaints can we take in consideration for the TUP or are we limited to whether it meets the zoning. Mr. Peck said with a TUP the standards are rather loose, you can determine whether granting this TUP and would it have an adverse impact on the neighborhood. There is nothing there that says it's because it's too close to a side yard or too tall. The question is if the TUP is granted will it have an adverse impact that will be absent if the temporary use permit was not granted. So it is a balance that each of you have to make, there's just no standards like there are for a variance.

Vice Chair Ward asked has anybody discussed with the applicant if they can move the RV to the back of the property. Ms. Armstrong said the problem is the location of septic tank and the electric runs directly from the house to the RV. When they delivered the trailer they connected it to the septic tank which was there biggest issue to relocate the trailer. Her mother is on a fix income and doesn't have the funds to transition the electric and the septic lines to move the trailer to the back of the property.

Member Personne said some of the complaints can be addressed by some fencing, and asked if that could be a more affordable option rather than by relocating the trailer. Ms. Armstrong asked fencing around the entire property. Member Personne said just a portion of the property, the area where the trailer is so it is more enclosed. Ms. Armstrong said she doesn't have money to reroute the utilities and wouldn't have the money for a fence or wall.

Vice Chair Ward asked what is involved in moving the electrical and septic. Ms. Armstrong said the electric runs underground to the trailer.

Vice Chair Ward asked doesn't it make that more of a permanent structure? Ms. Armstrong said it can be moved.

Mr. Gerard said he is not aware of any permitting for electrical or plumbing for a self-contained RV which can be pulled away. There could be a fence in the area by the RV. Ms. Armstrong said it would be awkward to just have a fence on that one corner of the property.

Mr. Gerard said the complaints are non-zoning issues with behavior, and if someone is littering which can happen anywhere, and if a wall was built it could happen outside the fence.

Ms. Armstrong asked staff the best way her mom can resolve the issue. Does she need to find out how much it would cost to have the trailer relocated to the back of the property or is it a zoning issue as to where the trailer is located? Mr. Gerard said when we talk about an accessory dwelling unit or a mobile home that would remove any zoning question, and it would be a permitted use. The neighbor's concerns would remain because they have nothing to do with zoning. Only because someone is residing in an RV is a zoning question, but there has been an open violation for an occupied RV and multiple dwellings which can be resolved by a TUP.

Mr. Peck said if they were to go with a permanent structure, an accessory dwelling cannot be located where the trailer is because it would be in the front yard. Mr. Gerard said correct, it could only be in the principle building envelope and it would have to meet setbacks, or the required interior side or rear yard and it couldn't be in the south or east lot line adjacent to the street.

Ms. Armstrong asked is it okay if we move the structure to the back yard? Mr. Gerard said it is a recreational vehicle and not a structure. The only way you can have somebody reside in the RV is with a temporary use permit. Without a TUP nobody can live there under the zoning regulations. You can have somebody permanently live in a mobile home or a manufactured home and it would have to be permanent and meet setbacks. Even a stored RV cannot be in the front yard 40 feet from the south or 30 feet within the street on the east.

Member Cardon said there are complaints and concerns but they necessarily don't relate to what we are directly addressing today.

BOARD ACTION: Member Cardon motioned to approve TU2020008 with conditions 'a'-'e'. Member Personne second. Approved 4-0.

- a. Development of the site shall comply with the entitled site plan, "Henderson Owner", stamped received March 23, 2020, consisting of 1 page, except as modified by any condition identified herein.
- b. Use of the site shall be in conformance with the Narrative Report entitled, "To Whom This May Concern:" consisting of 2 pages, stamped received March 23, 2020, except as modified by any condition identified herein.
- c. This Temporary Use Permit is authorized for two (2) years and shall expire on **April 17, 2022**. The Temporary Use Permit approval letter must be visibly displayed at the front of the property at all times. Failure to meet this display requirement shall result in revocation of the Temporary Use Permit if a Zoning Citation is issued.
- d. The property owner/s and their successors waive claim for diminution in value if the County takes action to rescind approval due to noncompliance with any condition.
- e. Upon expiration or termination of the Temporary Use Permit, the temporary use shall cease. Any temporary or mobile structures shall be removed within **ten days** of said expiration or termination. Any alterations to the principal or accessory buildings or structures should be issued permits within **ten days** and shall be completed and finalized within 30 days of expiration.

Adjournment: Chairman Loper adjourned the meeting of April 16, 2020 at 2:50 p.m.

Prepared by Rosalie Pinney
Recording Secretary

April 16, 2020