



P I N A L • C O U N T Y
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PINAL COUNTY BOARD OF ADJUSTMENT AND APPEALS

Regular Meeting

9:00 a.m.

Thursday, August 27, 2015

Planning and Development Conference Room Pinal County Complex – Building F
31 N Pinal Street, Florence, Arizona

NOTICE OF PUBLIC MEETING AND AGENDA

Some members may participate telephonically

CALL TO ORDER:

- () WOLF, Chairman () SABEL, Vice Chairman
() KENNEDY, Member () DAVILA, Member () DEVLIEGER, Member

PLANNING DIRECTOR DISCUSSION ITEMS:

- There are no Planning Director discussion items for today's meeting

DISCUSSION / APPROVAL / DISAPPROVAL

1. **MINUTES OF PREVIOUS MEETINGS:** January 22, 2015 and April 23, 2015

HEARING SCHEDULE:

2. There are no Public Hearings scheduled for today's meeting

EXECUTIVE SESSION:

The Board of Adjustment may go into executive session for purposes of obtaining legal advice from the County's attorney(s) on any of the above agenda items pursuant to A.R.S. § 38-431.03 (A)(3).

ADJOURNMENT

COMMUNITY DEVELOPMENT
PLANNING DIVISION



**PINAL COUNTY PLANNING AND ZONING
BOARD OF ADJUSTMENT
MINUTES OF JANUARY 22, 2015**

PRESENT: Mr. Tom Wolf, Chairman Mr. Paul Sabel, Vice-Chairman
Mr. Frank Davila, Member Mr. Gilbert DeVlieger, Member
Mr. Richard Kennedy, Member

STAFF PRESENT: Mr. Steve Abraham, Planning Manager
Mr. Evan Balmer, Planner I

The meeting was called to order at 9:04 AM, this date by Chairman Wolf, in the Emergency Operations Center (EOC) Hearing Room, Building F, Florence, Arizona.

Chairman Wolf gave an overview of the meeting proceedings and agenda.

PLANNING DIRECTOR DISCUSSION ITEMS:

- **Board of Adjustment per diem and travel expenses**
Mr. Abraham explained that in an effort to reduce County expenses, the members of the Board of Adjustment would be receiving a per diem instead of being provided lunch. Also, Mr. Abraham noted that the mileage reimbursement rate had changed and that change would be reflected in the Board members next mileage reimbursement check.
- **Pinal Airpark Tour**
Mr. Abraham invited the Board of Adjustment members to a tour of Pinal Airpark on March 13, 2015.

DISCUSSION/APPROVAL/DISAPPROVAL

1. MINUTES OF PREVIOUS MEETING: July 24, 2014

Chairman Wolf asked if there were any comments on the minutes. Hearing none, Chairman Wolf asked if there was a motion.

MOTION:

Mr. DeVlieger made a motion to approve the July 24, 2014 meeting minutes with Mr. Sabel seconding the motion. The motion carried unanimously.

HEARING SCHEDULE:

- 2. BA-002-14 – PUBLIC HEARING/ACTION:** Mike Peltcs, landowner, Jason Sanks, applicant, requesting a reduction in the off street parking requirements of Section 2.140.020; to decrease the parking space requirement for a warehouse from one (1) space per every one thousand (1,000) square feet of total floor area or one (1) space per three (3) employees in the largest working shift, whichever is greater, to thirteen (13).

total spaces as indicated on the site plan submitted for the proposed Omni Self Storage facility on a 13.95± acre parcel in the (C-2) Community Commercial Zoning District, situated in a portion of Section 30, T02S, R08E, G & SRB & M, Tax Parcels 104-53-009E (legal on file) (west of Gantzel Road north of Pecan Creek Drive in the San Tan Valley area).

- 3. BA-003-14 – PUBLIC HEARING/ACTION:** Mike Peltcs, landowner, Jason Sanks, applicant, requesting a variance to Section 2.320.040J, which requires a minimum six (6) foot wall between the C-2 zone and a residential or rural zone and a minimum ten (10) foot landscape strip between the wall and any use in this zone, including parking, on a 13.95± acre parcel in the (C-2) Community Commercial Zoning District, situated in a portion of Section 30, T02S, R08E, G & SRB & M, Tax Parcels 104-53-009E (legal on file) (west of Gantzel Road north of Pecan Creek Drive in the San Tan Valley area).

Mr. Abraham explained that because many of the facts of cases BA-002-14 and BA-003-14 are the same, including location, Staff combined them into one presentation. Mr. Abraham informed the Board that they may conduct one public hearing for both cases and make a separate motion for each case. Mr. Abraham asked any member of the public wishing to speak on either of these cases to please specify which case they are speaking on.

Mr. Wolf explained that if the Board decides to go into Executive Session, per A.R.S. § 38-431.03 (A)(3), that would be announced and, if necessary, the room would be cleared until the Executive Session has been adjourned.

Mr. Abraham explained that the first request, BA-002-14, was a request to reduce the parking requirements for a warehouse use from one space for every one thousand square feet of total floor area or one space per three employees in the largest working shift, whichever is greater, to thirteen total spaces as indicated on the site plan submitted for the proposed Omni Self Storage facility. Mr. Abraham noted that because the County does not have a parking calculation specifically for self storage facilities, this is considered a warehouse use.

The second request on the same property is for a variance from Section 2.320.040J, which requires a minimum six foot wall between the C-2 zone and a residential or rural zone and a minimum ten foot landscape strip between the wall and any use in this zone, including parking.

Mr. Abraham stated that one letter in opposition was received from a property owner within 300'. The letter did not specify which of the two cases they were in opposition to, so the letter was included in both cases.

Mr. Abraham used a PowerPoint presentation to describe the site.

Mr. Abraham stated that there are several points to consider with regards to the parking component. The first is that the self storage use is not specifically listed in the code. If a use is not listed in the code, the Planning Director has the ability to determine which listed use it is most similar to, but he cannot create entirely new categories. Because self storage does not generally generate significant parking, Staff felt that the use most closely resembled the warehouse use, which at one space per 1000sf is also the lowest parking count currently in place at the County.

Mr. Abraham went on to state that staff had compiled a basic list of the parking

requirements from other communities, which is included in the Board's packet. With the exception of Maricopa County, Pinal County was the most restrictive of the five communities listed.

Mr. Abraham explained that most of the parking at self storage facilities is actually for loading and unloading. The reduction would be supported by the fact that self storage facilities do not generate the amount of traffic that other, more intensive, uses. Additionally, the way the site plan is configured allows for overflow parking in the event there is a substantial increase in parking at the site.

Mr. Abraham stated that this is not a variance request as indicated by the code; rather it is a request for a reduction in the parking requirement. Mr. Abraham stated that the self storage uses does require parking, however, there is some evidence to support the idea that it may not be as high as what the County requires at this time.

Segueing to the discussion on the wall and landscape buffer, Mr. Abraham explained that this request is a variance and that the Board would need to find for the factors outlined in the Staff Report.

The area in question is along the northern boundary of the site and is currently used as an easement by the Magma Irrigation District. Mr. Abraham noted that there is an irrigation channel located on the site. Magma Irrigation is, in part, regulated by the Federal Government. During the Site Plan process, the applicant received a letter from the Magma Irrigation District informing them that development within the easement would not be allowed.

Mr. Abraham stated that staff looked at the letter, the County's requirements and the proposed self storage use and determined that there are several points that could factor into the decision to grant a variance. First, a government jurisdiction over the easement is preventing the use. Second, the self storage building itself, with its long segments of uninterrupted building mass, would serve as the wall in this particular case. Mr. Abraham went on to state that Staff believes there is a unique and special circumstance in case BA-003-14.

Chairman Wolf called the applicant, Jason Sanks, forward.

Mr. Sanks stated this is the third upscale self storage facility his client has developed and provided a proposed architectural rendering of what the facility might look like. Mr. Sanks explained that it has been the experience of the developer that a facility of this size would require 10 to 14 parking spaces and that 14 are provided with this project.

In regards to the warehouse designation of this project, Mr. Sanks explained that self storage facilities operate differently than warehouse facilities do. Self storage facilities have two resident caretakers, whereas a warehouse can have many more employees as well as large delivery trucks stopping by regularly. Mr. Sanks stated that the developer anticipates four customer trips per day.

Chairman Wolf asked if there would be any spaces set aside for truck rental. Mr. Sanks responded that there would be no outdoor vehicle or boat storage, and there would also be no truck rentals available at the site.

With regard to the second request, the applicant has met with the engineering firm that manages the easement. Mr. Sanks stated that he feels this 60' easement is a

geographic constraint that has existed on the property for more than 50 years. The letter included in the packet is from the engineering firm and states that the applicant cannot do anything within the easement. Mr. Sanks went on to explain that the building was designed to buffer the storage use from the residential areas to the north.

Chairman Wolf asked how the second story units are accessed. Mr. Sanks responded that the two story portion of the facility is accessed in the rear of the facility near the required turn around.

Chairman asked if there would be any windows on the second story. Mr. Sanks responded that there were not.

Chairman Wolf opened the hearing to public discussion. Seeing none, Chairman Wolf closed the public hearing.

MOTION:

Mr. Davila made a motion to approve the reduction in the off street parking requirements of Section 2.140.020; to decrease the parking space requirement for a warehouse from one (1) space per every one thousand (1,000) square feet of total floor area or one (1) space per three (3) employees in the largest working shift, whichever is greater, to thirteen (13) total spaces as indicated on the site plan submitted for the proposed Omni Self Storage facility based on the following findings:

(c) That the strict application of the regulations would work an unnecessary nonfinancial hardship.

Vice-Chairman Sabel seconded the motion. The motion carried unanimously.

MOTION:

Mr. Davila made a motion to approve the variance to Section 2.320.040J, which requires a minimum six (6) foot wall between the C-2 zone and a residential or rural zone and a minimum ten (10) foot landscape strip between the wall and any use in this zone, including parking based on the following findings:

(b) That the special circumstances or conditions referred to in subsection (C)(4)(a) of this section are not self-imposed by the property owners within the subject area;

(c) That the strict application of the regulations would work an unnecessary nonfinancial hardship; and

(f) The variance does not allow a use that is not permitted in the zone district where the property is located.

Vice-Chairman Sabel seconded the motion. The motion carried unanimously.

- 4. BA-004-14 – PUBLIC HEARING/ACTION:** Gold Canyon Village Holdings, Inc., landowner, Pamela Johns, applicant, requesting a reduction in the off street parking requirements of Section 2.140.020; to decrease the parking space requirement for an assembly hall from: one (1) space per every fifty (50) square feet of total floor area used for public assembly or one (1) space per three (3)

seats in the main assembly room, whichever is greater, to: one (1) space per every one hundred (100) square feet of total floor area used for public assembly on a 3.83± acre parcel in the (CB-2) General Business zone, situated in a portion of Section 7, T01S, R09E, G & SRB & M, Tax Parcel 104-11-005B (legal on file) (north of US HWY 60 west of Mountainbrook Drive in the Gold Canyon area).

Mr. Abraham explained that case BA-004-14 is also a request to decrease the parking requirements of the Zoning Code.

Mr. Abraham used a PowerPoint to give an overview of the property and the request.

Mr. Abraham noted that there are several aspects of this case that staff had concerns about. The first is that assembly halls have a defined parking count, and that count is higher than most because the nature of the assembly hall use allows a large number of people to congregate for events. In addition to the people attending the event, there are also additional staff and personnel required to run the event, which require additional parking.

Secondly, Mr. Abraham explained that the property is essentially landlocked with no vehicular access to adjacent properties, and if there were to be an event with a high parking demand, patrons could end up parking in the right-of-way along U.S. 60. There is additional parking at the *Basha's* and there could be an agreement in the future with *Basha's* for overflow parking, but that is not part of the applicant's proposal. Mr. Abraham stated that there could be a joint parking agreement with the undeveloped parcel that is adjacent to the subject property.

Mr. Abraham noted that Staff travels by the site frequently and has noticed that there are a number of special events that occur at the subject property. It is a popular location and one of the few places in Gold Canyon for assembly.

Mr. Abraham went on to discuss some of the positive aspects of the proposal as well. Mr. Abraham explained that it is good planning practice to avoid "over-parked" situations. Staff does not want parking to spill into adjacent neighborhoods or create un-safe parking situations; however, too much surface parking can create its own issues such as drainage, heat island effect and environmental issues.

Given all of these factors, Staff feels that a full reduction does not appear to be warranted. Mr. Abraham explained that staff feels that a compromise of 1:75 sqft. could be reached on two conditions. First, would be that the assembly use could not be expanded for the life of the center, and second, within one year of approval a cross access parking agreement be secured with the neighboring property.

Chairman Wolf asked if staff had considered a variance on the width of the parking spaces, from 10' to 9', to allow for additional parking spaces. Mr. Abraham responded that was not something staff looked at. In initial meetings with the applicant, staff determined that the number of spaces needed would be more than could be made up through narrower spaces.

Mr. Wolf asked if this was a situation where the property owner would not be able to bring in any new tenants because there is no more available parking. Mr.

Abraham responded that the *Rosati's* would be able to expand, but after that there is no more additional parking.

Chairman Wolf called the applicant, Pamela Johns, forward.

Pamela Johns spoke on behalf of the property owner. Ms. Johns stated that the current owner purchased the property in March 2013 and was not the original developer. Ms. Johns stated that the property owners were not informed of the parking issue when they purchased the property in 2013. Ms. Johns explained that the owners have re-stripped the parking lot to gain additional spaces, but that there is still 12,000 sqft. of the center that cannot be leased out due to a lack of parking.

Ms. Johns noted that the event center generally operates on Friday and Saturday nights, after most of the other businesses in the center have closed. Ms. Johns stated that the property owners are willing to pursue tenants that operate during normal business hours, such as offices, to not add to the parking situation in the evening.

Chairman Wolf asked if the current owners also owned the adjacent one acre pad site. Ms. Johns responded that the ownership group was similar, but it is not the same group.

Chairman Wolf opened the hearing to the public.

Mr. Fred Hoffman came forward and addressed the Board and asked staff if this proposal would create more parking spaces at the location. Chairman Wolf responded that there were going to be no new spaces created, but that the spaces allocated to the event center would be decreased.

Ms. Peggy Fellows came forward and expressed her concern at reducing the size of the existing parking spaces or not adding any new spaces.

Chairman Wolf closed the public hearing and opened the Board discussion.

Mr. Sabel asked if the owners of the adjacent pad were to develop that parcel, would the applicant be back in the same situation they are in now. Mr. Abraham responded that it would depend largely on the use that went in as a commercial use would have a lower parking requirement than a restaurant would.

Chairman Wolf stated that he was the Chairman of the Design Review Committee when this center was first developed. The original developer intended to use the currently vacant pad as a standalone restaurant and never intended to have an assembly hall. Chairman Wolf stated that there are two restaurants in the center that have doubled in size since they were first developed. Chairman Wolf explained he feels that the assembly hall is primarily used on weekends and in the evening, but when they have a large event, it overloads the parking lot. Chairman Wolf explained that the right-of-way between the property and U.S. 60 is dirt, but not park able due to the vegetation and a drainage culvert. Chairman Wolf further explained that the only viable place for parking is the vacant adjacent pad.

Mr. Abraham asked Chairman Wolf if he could ask some questions of Ms. Johns. Mr. Abraham asked Ms. Johns if the owners of the event center had received any feedback from any of their customers about a lack of parking. Ms. Johns responded that the owner of the event center has not received any complaints about a lack of parking, and that the business owners in the center would like to see more businesses go in.

Mr. Abraham asked if the owners of the restaurants have received any feedback from customers about a lack of parking. Ms. Johns stated that she has not heard any feedback regarding parking from either restaurant owner.

Mr. Abraham asked about how the owner of the pad would feel about a cross access parking agreement that permanently allocated parking spaces in the pad to the center. Ms. Johns responded that, to her knowledge, it is not the intention of the property owner to develop a restaurant on the adjacent pad.

Mr. Abraham stated that the site is currently in compliance and that any additional uses would bring the site into non-compliance. Ms. Johns stated that they are trying to provide a situation where they can honestly go into the market and look to lease to less parking intensive uses, knowing that they might be limited in the type of uses they can lease to.

Mr. Abraham stated that one of the stipulations is no further expansion of the assembly hall use, but that restaurants also have a high parking count. He asked what the owners plans are should a restaurant wish to lease space in the center. Ms. Johns responded that the owner understood that they could not lease space to additional restaurants. She further stated that she feels Staff's recommendation of 1:75sq. ft. might leave a portion of the center un-leaseable. Mr. Abraham stated that the 1:75sqft proposal would free up 16 additional spaces, which would allow for three additional office uses, or possibly one additional restaurant. Mr. Abraham stated that the Board could stipulate that no additional restaurants be permitted in the center.

Chairman Wolf asked if the center would be filled without approval of the variance. Mr. Abraham responded that the owner could not lease anymore space right now because the parking is maxed out. Chairman Wolf stated that the *Rosati's* could expand, but there is still 12,000 sqft that could not be leased.

Mr. Kennedy asked if the prospective tenants were aware of the parking situation. Ms. Johns responded that they are not aggressively marketing the property because they cannot guarantee new tenants that they could get a permit from the County without the variance. Mr. Kennedy asked if the current tenants were aware of the situation. Ms Johns responded that they were.

MOTION:

Chairman Wolf made a motion to approve the reduction in the off street parking requirements of Section 2.140.020; to decrease the parking space requirement for an assembly hall from: one (1) space per every fifty (50) square feet of total floor area used for public assembly or one (1) space per three (3) seats in the main assembly room, whichever is greater, to: one (1) space per every seventy-five (75) square feet of total floor area used for public assembly based on the following findings with three stipulations as listed below as well as in the staff report:

(d) The granting of the variance is necessary for the preservation and enjoyment of substantial existing property rights.

Stipulations:

- 1.) Within one year of approval of the reduction, the applicant/owner/developer of Pinal County APN 104-11-005B shall secure a cross access and parking agreement with owner of Pinal County APN 104-11-005A. Parking spaces shall be improved to an applicable County standard prior to use.
- 2.) No additional expansions of the Assembly use will be permitted
- 3.) There shall be no additional restaurant uses allowed on the property.

Mr. Kennedy seconded the motion. The motion carried 4-1 (Board Member Davila dissenting).

ADJOURNMENT:

Mr. Davila made a motion to adjourn the meeting. Mr. Sabel seconded the motion. Meeting was adjourned at 10:25 AM.

RESPECTFULLY submitted this 27th day of August, 2015

Tom Wolf, Chairman

Steve Abraham, Planning Manager



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Greg Stanley
County Manager

**PINAL COUNTY PLANNING AND ZONING
BOARD OF ADJUSTMENT
MINUTES OF APRIL 23, 2015**

PRESENT: Mr. Tom Wolf, Chairman Mr. Paul Sabel, Vice-Chairman
Mr. Frank Davila, Member Mr. Gilbert DeVlieger, Member
Mr. Richard Kennedy, Member

STAFF PRESENT: Mr. Steve Abraham, Planning Manager
Mr. Evan Balmer, Planner I

The meeting was called to order at 9:02 AM, this date by Chairman Wolf, in the Emergency Operations Center (EOC) Hearing Room, Building F, Florence, Arizona.

Chairman Wolf gave an overview of the meeting proceedings and agenda.

Mr. Abraham stated that he would like to move the Planning Director Discussion Items to the end of the agenda.

Chairman Wolf agreed with Mr. Abraham's request.

DISCUSSION/APPROVAL/DISAPPROVAL

HEARING SCHEDULE:

- 1. BA-001-15 – PUBLIC HEARING/ACTION:** Nancy Mackiln, landowner/applicant, requesting a variance to **Section 2.150.100.A.2.b** of the PCDSC; to allow a five foot tall solid wall type fence in the required front yard setback on a 1.25± acre parcel in the (GR) General Rural zone, situated in a portion of SW¼ of Section 23, T10S, R14E, G & SRB & M, Tax Parcel 305-50-012G (legal on file) (north of Ridgeview Blvd. in the Saddlebrooke area in southern Pinal County).

Mr. Balmer used a PowerPoint presentation to describe the site and stated that he had received one letter in opposition since the Board members had received their packets.

Chairman Wolf asked where the driveway was located in the pictures staff presented as part of their presentation. Mr. Balmer responded that it was located on the western side of the property and that some of the site photos were taken from that location. Chairman Wolf asked where the wall would be located in the photo. Mr. Balmer responded that it would be approximately where the measuring wheel is located in the photo and run east from there. Chairman Wolf asked where the

COMMUNITY DEVELOPMENT
PLANNING DIVISION

opposition letter was received from. Mr. Balmer responded that it was from a neighbor to the west and that their parcel has not yet been developed.

Mr. Balmer explained that there are a few constraints present on the subject property which do impact the buildable area of the lot. The first is a severe grade change from where the house is being constructed to the north and northeast property line. The second is a 25' ingress/egress/public utility easement located within the subject property on the south side of the parcel. Mr. Balmer explained that the front setback would be measured from the edge of the easement, which would make the front setback 65' from the front property line instead of the standard 40' in the General Rural Zone.

Mr. Sabel asked for clarification of whether the 25' was an easement or a right-of-way. Mr. Balmer answered that it was an easement.

Chairman Wolf clarified that the applicant will be building a solid 5' high wall around the entire property, but the Board is only considering the portion that falls within the front setback because the Ordinance requires that the top 2' of the wall be open fencing. Mr. Balmer agreed with Chairman Wolf's statement.

Mr. Davila asked if the easement was a utility easement, or if the neighbors use it for access. Mr. Balmer responded that it is both a utility easement as well as an access easement for the neighbor to the south. Mr. Abraham added that the easement is fully dedicated to the public, but it is not technically a right-of-way.

Mr. Sabel asked if the 5' solid wall would be allowed in the side yard. Mr. Balmer responded that it would be and that this variance only pertained to the front wall within the front setback. The solid portion of side wall would need to step down to 3' with the top 2' open when the side wall entered the front setback.

Mr. Abraham asked the Board members to turn to the site plan provided in their packets. He explained that the site plan shows the easement and that anything south of that line would not be allowed. Mr. Abraham further explained that the type of wall Ms. Macklin has proposed would need to be 40' north of the easement line indicated on the site plan. Mr. Abraham stated that Ms. Macklin is essentially asking for a variance of approximately 20' to construct a solid wall in the front setback. Mr. Abraham also stated that side wall would either have to step down to 3' or become open when it entered the front yard setback.

Mr. Davila asked if the Board was considering a variance for the wall height or the setback. Mr. Abraham answered that the variance was really more for the construction of the wall because section 2.150.100.A.2.b of the Ordinance states that the top 2' of the wall should be open. Mr. Davila clarified that Ms. Macklin can construct the wall where she is requesting, but the top 2' would need to be open. Mr. Abraham agreed with Mr. Davila's statement.

Mr. Kennedy asked why the requirement for the top 2' of the wall to be open was in place. Mr. Abraham responded that when the Ordinance was updated in 2010, staff received direction to address specifics about fencing to avoid an aesthetic issue. There had been instances in the County of residents constructing solid cinder block

walls right on the front property line, which gave the impression of a non-residential land use.

Mr. Davila stated that the wall Ms. Macklin is proposing would not be on the property line. Mr. Abraham stated the wall could not be on the property line in this instance because it would be obstructing an easement.

Mr. Sabel asked if the wall would be a straight 5' wall or if it would follow the contour of the land. Mr. Abraham answered that he would let the applicant address that question.

Mr. Abraham went on to explain that one of the questions that staff looked at during their review was whether the lot was compressed enough by the topography of the site to warrant the variance. Mr. Abraham explained that there is a substantial drop in the grade of the property which leaves the north and northeastern portions of the property unbuildable. Mr. Abraham stated that staff had a difficult time justifying Ms. Macklin's request under the strict guidelines of the Ordinance, but that it would be left up to the Board to take a look at. If the Board determined that the compression of the buildable area is a factor, that is something that can be used as evidence by the Board if they wish to grant the variance.

Mr. Abraham explained that another fact to consider is that the easement is located entirely on Ms. Macklin's property. Mr. Abraham stated that staff prefers developments like this to come through the subdivision process, where issues such as this are normally addressed. However, this property was created through a Minor Land Division, and at the time it was created, the Minor Land Division review process was not as stringent as it is today. Mr. Abraham stated that there are some inherent site issues and that staff would leave it to the Board to determine if they were severe enough to grant the variance.

Chairman Wolf called the owner, Nancy Macklin, forward.

Ms. Macklin stated that when she purchased the property it was her intention to put the house as far back on the property as possible in order to capture the view to the south of the property. When she consulted a builder, Ms. Macklin was told that she could not put the house back any farther due to the topographic constraints. Ms. Macklin stated that they were going to put a pool in front of the house and wanted a solid wall to keep her two large dogs in and the desert animals out. Ms. Macklin stated that she was aware of the 40' setback, but thought it was measured from the property line and that she would still have enough room for the wall.

Ms. Macklin stated that the easement only serves three properties and she feels that the neighbor directly south of her property is the only one who would be affected by the visual of the wall. Ms. Macklin stated that, although she did not get their signature, she has been in contact with the owner of the house to the south of her property and they do not have any objections to the wall.

Ms. Macklin discussed how the construction and design elements of the wall will make it more aesthetically pleasing and less imposing, which is a concern staff had presented.

Ms. Macklin stated that if the variance was not granted, it would make the yard much less useable. Ms. Macklin explained that the solid wall would give her some privacy while she trains her dogs.

Mr. Sabel asked if the wall would be flat or if it would step up to conform to the natural contours of the ground. Ms. Macklin responded that it would be fairly flat, though she did suspect there could be a little undulation over the length of the wall.

Chairman Wolf asked if a 5' wall would be tall enough to keep her dogs in the yard. Ms. Macklin responded that it would be.

Chairman Wolf asked if a wall built to the specifications listed in the Ordinance with a 2' view fence on top of a 3' solid wall would meet her needs. Mr. Macklin responded that she is requesting a solid wall for a number of reasons including: privacy, to prevent her dogs from seeing through the fence and barking, and the general aesthetics of a solid wall will complement the southwestern design of the house.

Mr. DeVlieger asked if the road could be extended in the future. Ms. Macklin stated that extending the road is unlikely as it only serves three homes. Chairman Wolf asked if it was a private road. Mr. Abraham responded that it is not maintained by the County.

Chairman Wolf asked if the gate in the wall would extend beyond 5'. Ms. Macklin responded that it might extend an additional 6" just to add visual interest to the wall and make it seem less imposing. Chairman Wolf asked if she had an estimate of the length of the wall. Ms. Macklin responded that it was approximately 125'.

Chairman Wolf asked if the wall would create issues with the underground propane tank shown on the site plan. Ms. Macklin responded that they were going to move the propane tank to the east side of the property outside of the wall for ease of access when refilling the tank.

Mr. Sabel asked if there was a requirement for how large the openings in the view portion of the fence needed to be. Mr. Abraham responded that there was not.

Mr. Kennedy asked if the wall would be constructed out of cinder blocks, or if Ms. Macklin intended to use straw for an authentic adobe style wall. Ms. Macklin responded that it would be constructed with cinder blocks. Mr. Sabel asked if Ms. Macklin intended to stucco the wall. Ms. Macklin responded that her intention was to stucco the wall.

Mr. Wolf asked how the wall would impact Ms. Macklin's view. Ms. Macklin responded that the farther away from the home the wall is constructed, the less it will impact her views.

Mr. Abraham entered two letters in support provided by Ms. Macklin into the record as applicant exhibit "A" and one letter in opposition as staff exhibit "A".

Chairman Wolf asked for clarification as to why this was not two separate requests. Mr. Balmer responded that the fence is permitted within the front setback as long as the top 2' is constructed as view fencing. Chairman Wolf asked if the solid wall would

be permitted if it was moved back to the 65' line outside of the front setback. Mr. Balmer responded that a solid wall would be allowed without a variance if it were to be moved outside of the front setback.

Mr. Kennedy stated he views this as a property rights issue due to the fact that Ms. Macklin has given up 25' for access on her property and she is simply asking for the setback to be measured from the property line to allow her more yard space. Mr. Kennedy stated that he does not see a reason why the variance should not be granted.

Chairman Wolf stated that while he understands the position of the neighbor in opposition that Ms. Macklin could use natural materials such as trees to create a fence in the front setback, the trees would not contain Ms. Macklin's dogs.

Mr. Davila, Mr. DeVlieger and Mr. Sabel stated that they were in agreement with Mr. Kennedy.

Chairman Wolf asked for a motion.

MOTION:

Mr. Davila made a motion to approve the variance to **Section 2.150.100.A.2.b** of the PCDSC; to allow a five foot tall solid wall type fence in the required front yard setback based on the following findings:

- (b) That the special circumstances or conditions referred to in subsection (C)(4)(a) of this section are not self-imposed by the property owners within the subject area;
- (d) The granting of the variance is necessary for the preservation and enjoyment of substantial existing property rights; and
- (e) The granting of such variance will not materially affect the health or safety of persons residing or working within the subject area and adjacent properties and will not be materially detrimental to the public welfare or injurious to property or improvements in the neighborhood.

Vice-Chairman Sabel seconded the motion. The motion carried unanimously.

2. MINUTES OF PREVIOUS MEETING: January 22, 2015

Chairman Wolf had a question on the motion for case BA-004-14. Mr. Abraham stated that staff will make the corrections to the minutes and the Board can approve them at their next meeting.

3. PLANNING DIRECTOR DISCUSSION ITEMS:

Mr. Abraham discussed the possibility of the Board of Adjustment taking on expanded roles by hearing appeals of the Hearing Officer's decisions. Mr. Abraham explained that the Hearing Officer is part of the Code Compliance process and is someone who listens to cases and makes a ruling on whether or not someone is liable. These rulings are currently appealed directly to the Board of Supervisors. Mr. Abraham explained that the Board of Supervisors hearings can be lengthy and the appeals are generally put at the end of the

agenda.

Mr. Abraham explained that because the Board of Adjustment is trained in hearing factual arguments, the County Manager was exploring the possibility of transferring this responsibility to the Board of Adjustment. If the Board were to start hearing these appeals, they would be responsible for either upholding or removing the fines associated with the appeals. Mr. Abraham stated that if this change were to be adopted, the number of Board of Adjustment meetings would not necessarily increase, but the length of the agenda probably would.

Chairman Wolf stated that the Board of Adjustment members serve at the pleasure of the Board of Supervisors and they are willing to take on any new responsibilities.

ADJOURNMENT:

Mr. Davila made a motion to adjourn the meeting. Mr. Sabel seconded the motion. Meeting was adjourned at 10:12 AM.

RESPECTFULLY submitted this 27th day of August, 2015

Tom Wolf, Chairman

Steve Abraham, Planning Manager