



**MARICOPA COUNTY, ARIZONA**  
**Board of Adjustment**  
**Minutes**  
**June 20, 2019**

**CALL TO ORDER:** Chairman Morris called meeting to order at 10:05 a.m.

**ROLL CALL/**  
**MEMBERS PRESENT:** Mr. Jason Morris  
Mr. Craig Cardon  
Mr. Greg Loper  
Mr. Jeff Schwartz (telephonically)  
Ms. Fern Ward

**STAFF PRESENT:** Mr. Darren Gerard, Planning Services Manager  
Ms. Rachel Applegate, Senior Planner  
Mr. Martin Martell, Planner  
Ms. Jaclyn Sarnowski, Planner  
Mr. Eric Smith, Planner  
Ms. Rosalie Pinney, Recording Secretary

**COUNTY AGENCIES:** Mr. Wayne Peck, County Attorney

**ANNOUNCEMENTS:** Chairman Morris made all standard announcements.

**APPROVAL OF MINUTES:** May 23, 2019

**AGENDA ITEMS:** TU2019008, BA2019023, BA2019014, BA2019019, BA2019022

Mr. Gerard noted item #3 - BA2019014 is requesting a continuance to the July 18<sup>th</sup> hearing.

Chairman Morris requested a motion to approve the May 23 minutes.

**BOARD ACTION: Member Loper motioned to approve the May 23, 2019 minutes. Member Cardon second. Approved 5-0.**

**CONTINUANCE AGENDA**

<b>TU2019008</b>	<b>Kodiak Investments Property (Cont. from 5/23/19)</b>	<b>District 2</b>
<b>Applicant/Owner:</b>	BCS Enterprises Inc. & Kodiak Investments LLC	
<b>Location:</b>	4136 S. 80 <sup>th</sup> St. - west side of 80 <sup>th</sup> St., approx. 1,500' north of Warner Rd. in the Mesa area	
<b>Zoning:</b>	IND-3	
<b>Request:</b>	Temporary Use Permit (TUP) for temporary use of mobile trailers as a contractor's office and yard during construction of a permanent facility	

**BA2019023**

**Dubei Property**

**District 1**

**Applicant/Owner:**

Daniel & Kendra Dubei

**Location:**

26606 S. 202<sup>nd</sup> St. – northeast of the intersection of Hawes Rd. and Empire Blvd. in the Queen Creek area

**Zoning:**

Rural-43

**Request:**

Variance to permit:

- 1) Proposed front setback of 33' where 40' is the minimum permitted

Mr. Gerard presented the continuance agenda.

**BOARD ACTION: Member Loper motioned to continue TU2019008 indefinitely, and motioned to continue BA2019023 to the July 18, 2019 hearing. Member Cardon second. Continued 5-0.**

**BA2019014**

**XLNT Investments, LLC (cont. from 5/23/19)**

**District 1**

**Applicant/Owner:**

Timothy A. La Sota, PLC / XLNT Investments LLC

**Location:**

825 N. Scottsdale Rd. – approx. 400' south of Curry Rd. in the Tempe area

**Zoning:**

IND-2

**Requests:**

Variance to permit:

- 1) A proposed medical marijuana dispensary and cultivation site to be separated 251' from an existing medical marijuana facility and;
- 2) A proposed medical marijuana dispensary and cultivation site separated 1,294' from an existing park and;
- 3) A proposed medical marijuana dispensary and cultivation site separated 83' from an existing adult oriented business where 1,500' is required per MCZO

Chairman Morris recused himself from BA2019014. Member Loper is the acting chairman.

Ms. Kellie Nunes said she is in opposition to the continuance and noted this case has been continued more than once before. The recommendation by the staff was to oppose the variances and she doesn't see a compelling reason to continue this.

Ms. Kimberly Gaffney-Loza said there's been several continuances and staff's recommendation that the variances aren't justified are very clear. There is no reason why this should be continued. It really affects our neighborhood and then we have to keep coming down here to deal with this.

Ms. Darlene Justus said staff is recommending against this establishment at this location, and continuing it over and over again doesn't serve anybody very well. She does not want this continued and she would like it heard today. If it's going to be heard today, she would like to address it on its merits.

Mr. Peck said this property is subject to ongoing litigation and we had a hearing in Superior Court on Tuesday where he represented to the court that staff was going to recommend a continuance. He does understand it is a burden to keep coming down here, but there are things going on beyond what's going on here today. Staff is recommending a continuance.

Mr. Tim La Sota, the applicant said it is unfortunate that people came down here. This is a matter of litigation and it concerns whether two variances are needed and we should wait. There is a possibility another continuance might be requested for exactly the same reasons. He will communicate with staff the best he can to be put on the appropriate agenda.

Member Cardon asked is there's a reason that it remains on the agenda or would it be possible to remove it and just have it come back when it's ready to be heard? Mr. Peck said that would be the applicant's determination, and at this point the applicant has not sought to remove it. It appears the litigation could be resolved the beginning of July but it is based on a motion. In the event the motion is not granted, the court has scheduled a hearing for early August. He anticipates it would be heard at the Board's August meeting. We don't take items off of the agenda unless the applicant requests it, and they would have to request a withdrawal.

Member Cardon asked is there any reason we wouldn't continue for two months having this information now. Mr. Peck said if he did a really good job on the motion the case will end in July, then it could be heard.

Chairman Loper asked is there a policy for a number of continuances? Mr. Gerard said there is not. As a general rule if the applicant doesn't show up we would continue for the first hearing, but there is no rule requesting a continuance. Staff has no opposition to the continuance.

Member Schwartz asked what the dispute is whether they need two or three variances and what's in contention. Mr. Peck said he cannot discuss in a public forum, but the Board could go in an executive session where he could explain it. It is a matter of litigation and it's not something we should be discussing at a public meeting.

Member Schwartz said he doesn't want to know the merits but asked what the two items in contention are. Mr. Gerard said there's been a certificate of occupancy issued on a new medical marijuana dispensary facility in the immediate neighborhood and it's the third variance request on the subject case. Prior to that certificate of occupancy being issued, that use was not considered established and that variance was not yet needed. Staff recommended to add that variance on to their case suggesting that it behooves them to include it now rather than get two variances after this medical marijuana facility. Should that medical marijuana facility that got established get established then they would have to come back for a third variance. There was question earlier about whether or not they needed that third variance. There is no question anymore barring some kind of court decision. There is another critical use from which they need a minimum separation variance.

Chairman Loper said he appreciates the people that came down, and depending on when this gets continued there may be another continuance. The comments are part of the record and we try to minimize continuances where possible. A two month continuance may be more appropriate because we could be resolved by then, and it may or may not be resolved by July. Mr. Peck said at this point the request is for one month but if the Board feels it's more appropriate for two months, it would not in any way have a negative impact on the pending litigation from the County's point of view.

Mr. La Sota said we can ask it be continued indefinitely, then we could ask for it to be put back on the agenda at the appropriate time. There is a possibility it would be ready in July. Mr. Peck said depending on the outcome at trial it may be appealed.

Chairman Loper asked when a case is continued indefinitely and it's put back on the Board's agenda does it have to be re-advertised? Mr. Gerard said if you continue indefinitely you would need a new public notice. If it's continued with a date specific then no new public notice is needed.

Mr. Peck said postponing this to August 15 would not accomplish what you were talking about. He strongly advises the indefinite continuance as the applicant suggested.

Member Cardon said he is in support of an indefinite continuance, and he would be upset if he had to keep coming back. He hopes the next time it comes back it would be for a determination on the matter.

**BOARD ACTION: Member Cardon motioned to continue BA2019014 indefinitely. Member Ward second. Continued 4-0-1 (Morris).**

### REGULAR AGENDA

<b>BA2019019</b>	<b>3906 W. New River Rd. (Cont. from 5/23/19)</b>	<b>District 3</b>
<b>Applicant/Owner:</b>	Carolyn Oberholtzer, BFSO / CP2004 Station, LLC	
<b>Location:</b>	3906 W. New River Rd. – northeast of the intersection of Interstate 17 (I-17) and New River Rd. interchange in the New River area	
<b>Zoning:</b>	C-2	
<b>Requests:</b>	Variance to permit: <ol style="list-style-type: none"><li>1) A proposed off-site advertising sign (Billboard) sign face of 672 sq. ft. where 300 sq. ft. is the maximum permitted and;</li><li>2) A proposed off-site advertising sign (Billboard) height of 66' where 30' is the maximum permitted</li></ol>	

Chairman Morris and Member Cardon recused themselves from BA2019019. Member Loper continued as acting Chairman.

Ms. Sarnowski presented BA2019019 and noted 32 letters of opposition including a letter from the New River /Desert Hills Community Association and a petition with 116 signatures. Their concerns are allowing a billboard in the scenic corridor, the size and height of the billboard and concerns of a third sign on the site, and opposition to billboards in general to this area. The New River/Desert Hills Community Association concerns are related to the size and height of the proposed billboard and the effect on the community, allowance of a third sign on the property and lighting in reference to dark skies. Many comments discussed that this request was for a third sign on the property and staff would like to clarify that the current signage on the site are accessory to the use and are allowed as of right. This request is for an off-site advertising sign and is a request for an additional primary use. Staff recommends denial as the request fails to meet the statutory test for the variance approval. The applicant has failed to demonstrate that there's a peculiar condition facing the property and the argument from the applicant is due to the elevation of the adjacent freeway and not a peculiar condition of the property itself. There are many uses that could be made on the property for which no variances would be required. This is an inappropriate location in a scenic corridor. There are currently three uses on the subject property for which variances were not required. The desire to install a billboard on the site causes the need for the variance and not any condition of the property. While the applicant has

generally identified how it believes this proposal is consistent with the intent of the C-2 zoning, not every site within C-2 zoning is an appropriate location for a billboard. Because there is no peculiar condition of this property, as opposed to the I-17 freeway, this is a property that is not appropriate for a billboard that seeks to be visible to freeway traffic. There is extensive current use of the property without variances. The site is an inappropriate location for a billboard seeking to be visible to freeway traffic, and it is part of the I-17 Natural Scenic Corridor, where its design guidelines suggest no billboards within the scenic corridor. Allowing additional height and size for an off-site advertising sign in a scenic corridor would take away from the natural benefits of a scenic corridor. The reasoning behind the need for the variance is due to the terrain and height of the freeway is part of the reason why the area is considered a scenic corridor. If the Board finds the applicant has proven entitlement to the variance, then paragraphs 21 and 22 on the staff report details the requirements for the Board to determine a motion of this case. If the Board motions for approval of the request staff offers conditions of approval 'a'-'f' as outlined in the staff report.

Member Schwartz asked if this is the same owner that originally built the gas station. Mr. Gerard said he believes it's the same property owner that developed the convenience store. The applicant and owner of the billboard isn't related to that convenience store property owner, and he believes it's a lease holder. He would have to defer to the applicant to better answer that question.

Ms. Carolyn Oberholtzer said she is with the law firm of Bergin, Frakes, Smalley & Oberholtzer (BFSO) and is representing Boulevard Media the lease holder on this site. The variance is related to this property at the northeast corner of the I-17 Interstate and New River Road directly adjacent to the I-17 which is zoned C-2. This variance has a peculiar condition that the Board of Adjustment has recognized in the past where a freeway was constructed at such an elevation and the adjacent property was properly zoned for a billboard. This Board has recognized that the depressed condition of the property which is sought to be constructed in relation to the elevated freeways supported a variance, and this case today is very similar to those other cases. Directly north are additional C-2 properties and a multitude of RU-43 and BLM land to the south. The Shell station sign has received a lot of attention from the community. We are not the applicant on that case but the sign is elevated and it looks as if they attempted to place it on the highest point of the property in order to have maximum visibility from the freeway. That's a freeway monument sign on-site advertising. The position of this property is greatly depressed below the adjacent freeway. The scenic corridor does not have any impact on this variance, and we've been sensitive to the communities concerns and made modifications to the application. This is a C-2 property, and by right they could submit a Plan of Development (POD) for a billboard at 30 feet on this property. This far exceeds all of the County's spacing requirements as being adjacent to other signs. The proximity to the residential districts where you can't have a billboard on C-2 within 100 feet or 150 feet if illuminated. This is more than 200 feet away and more than 4,000 feet away from the nearest billboard. This is not a question if this is an appropriate location for a billboard. Under the County's codes it meets every spacing requirement. The graphic in the staff's presentation depicts the elevation of both the north and southbound travel lanes. The southbound travel lanes are 325 feet from the western most edge of the proposed sign location. The northbound travel lanes are 175 feet. The northbound travel lanes are at 34 feet and are slightly below the southbound at 38 feet above the location of the sign. The sign is up on that ridge to be placed in an area that is adjacent to the existing sign, not to create some new area of signage. The bottom of the poles for this monument sign are about 30 feet where they are wider until they get narrow is the top of where the billboard would be if

we construct it without this variance. The height of the sign at 14 feet is exactly in line with the combined height of the fuel numbers and the Subway sign. They are trying to be commensurate with the portion of the Shell sign to be in the same visual plain from travel as the combined fuel sign and word Subway. We didn't feel any additional height was necessary. According to the Manual of Uniform Traffic Control Devices (MUTCD) there are industry standards based on speeds of freeways as to what is a safe read distance for signs and how large the lettering should be. At 70 mph you should have 5.5 second read distance according to the 2009 manual. The graphic shows at a distance at 1,080 feet and as close as 290 feet. There is not a 5.5 second difference because we would be at 550 feet where you would need to see the sign, and it is not visible just outside of that read distance. It's not fully visible at 290 feet. You would be passing it in less than three seconds. With the variance at 66 feet the sign is visible from 1,080 feet and that's the best advantage point being in the closest travel lanes. There is a peculiar condition, the property is 30 feet below the freeway and that is not a self-imposed condition. That is the condition of the property that is properly zoned for a billboard, and it meets all of the spacing and setback requirements. Staff suggests this should not be a variance granted because there are other uses available on the site. The Board has also found in those other billboard cases there was a peculiar condition and hardship, even where there were multiple uses on the site. Billboards are not intended to be the primary use and they are often times located where there are a variety of uses. In other cases they said external conditions to the property can support a variance. They have had a lot of productive discussions with the community with the lighting. She understands they are very concerned with the Shell station sign and she agrees it's very bright and visible, but that's not related to our sign. That sign and limitations cannot be a part of our variance application for a billboard. We have been in dialogue with the owner of that sign and we are working to get a dimmer on the Shell sign to address the brightness at night. Staff provided a number of stipulations to address the situation of the lighting, and this billboard will not be converted to digital because it's not permitted under the current County code. It would not be if the text amendment moves forward. This is not an appropriate location for digital and we would not put a digital sign there. We restricted the number of fixtures to go on the sign and proposed to just put two at the top with a maximum of two per side. Plus staff included a stipulation that would require an 11 p.m. shutoff. If the Board approves their variance the next step would be to apply for a POD, and that has to occur before the building permit so we would ask for a six month period to obtain our building permits versus the three months.

Chairman Loper asked if stipulation 'e' works for the applicant. Ms. Oberholtzer said they would ask for six months for the building permit to allow for the Plan of Development process.

Mr. David Swartz said he is not related to Board Member Schwartz plus their names are spelled differently. He worked in the planning and the civil engineering department of a major employer for many years and he was constantly involved in site selection, but this is purely a poor decision on site selection. There are many homes to the west side of the freeway that are adversely impacted, and the existing sign is catastrophically big and bright all the time. This is located at a point where people start to pick up their speed while coming up a hill without being able to see over the hill. It's an inappropriate area to have billboards with the amount of time they are distracted in order to read these signs. There was nearly an accident producing the video shown by the applicant. This is not the proper location for this billboard, this is a beautiful rural area and the last thing this area needs is a bunch of signage and dark sky destruction. The size they are requesting is over doubling the required maximum height. Please vote no on this variance.

Chairman Loper asked in terms of locations where a billboard can be located is it only specific zoning districts? Mr. Gerard said correct, C-2, C-3, IND-2 and IND-3 zoning districts.

Chairman Loper said the applicant had a slide that showed the zoning, and asked is that fairly accurate that it's concentrated at the interchange but not further north or further south? Mr. Gerard said in this area yes, but he's not exactly sure the acreage. The site is a third or a fourth of C-2 on the north side of New River, and there's C-2 or C-3 further south along the meander of Black Canyon Highway.

Mr. David Thompson said he urges a no vote on this proposal. There's already an available sign south of that location that is available and there's not a big market out there. The pylon sign was originally slated to be much shorter but they changed their plan and decided to put a cell phone antenna on it which allowed them to make it 80 foot high. There is no cell phone antenna up there or no conduits on the sides. The 30 foot was intentionally put in to keep the signs down low so they wouldn't glare all over the place. After the pylon sign went in now they are using that as an example as to why they should have another sign in the same area. They are gaming the system and putting in things, and slowly encroaching on the area and lighting it up. This is a dark sky area and they are proud of it. He encourages a no vote on this.

Mr. Ron Bentley said he lives directly across the freeway from this proposed sign and he can do what most can't, he can get up in the morning and tell you how much gasoline is going to cost. This billboard is not needed, it's a dangerous area on the freeway and motorists don't need the distraction in that area. It's currently 30 feet above where they should put the sign. They are getting ready to revamp I-17 and what will be the height when they get through with it. The Board should say no to this billboard, it is an eyesore and it's not something that is not needed in this area. This is the last of the Sonoran Desert as you're leaving Maricopa County or coming in and do we want to put another scar on it with a billboard. We all carry a billboard in our pockets, and it's called a cell phone. If you want to know how much something is going to cost you can Google it. You can't use your cell phones when driving anymore but you're going to put a 672 square foot sign to distract drivers. He learned when bull riding wherever you're looking that's where you're going to land, and the same thing goes when you are driving. This entrance to the freeway is terrible where large trucks are coming in at 35 mph and you are coming in at 70 mph, and you are paying attention to a sign and you're not paying attention to that big semi coming in. It's a dangerous area and it's not an area conducive to a billboard. He asks the Board to deny the variance.

Ms. Kaci Faber said she doesn't want a sign because once there will be one sign then they'll be more and more coming. She doesn't want to live in the city and she wants to see stars in the night sky. She likes living in a rural area, and doesn't need anybody to building an off-site billboard just to only make money. That has nothing to do with their rural lifestyle. Please don't allow this variance and keep the current regulation.

Ms. Angela Faber said there is currently a billboard available right down the street from the proposed sign and it's actually available. If somebody did want to advertise there is already spaces available. A sign to be adjusted at that variance is something that does not need to happen. She showed a picture of how bright it is even at dusk. She is requesting the sign be denied and to be kept as is. She is married to a first responder and he works in that area as a paramedic, and we all know that the road is dangerous as is with the maximum speed 70 to 75

mph, and on a weekend you might go slower. The sign at 30 feet will still be recognized in either direction. She recommends the sign be denied.

Ms. Debbie Joy said the applicant is claiming an undue hardship and she finds this to be humorous because the ones experiencing undue hardship is the residents of New River they already lost much of their dark skies due to the freeway pylon sign and would lose even more if this billboard is permitted. The current owner of the property or lease holder would see this as his fourth revenue stream. The topography has not changed from when this parcel was purchased, and the freeway has been at this same location for at least 50 years. The first speaker mentioned poor site selection because it is not a reasonable place to put a billboard with the dangers of the traffic. The applicant knew there was no possibility to put in a standard size billboard and they would have to put in this variance. New River is primarily rural residential and has few businesses. There's other locations south of New River Road along I-17 that are at grade and could easily add more billboards, not that we want more billboards. They could stick to a standard size billboard like the one that is available right now. That's a better location and they are not going to advertise businesses specific to that exit. Billboards that want to advertise for Phoenix can go in Anthem where there is already many areas for billboards or at commercial properties at the edge of I-17 south of New River. The applicant states this is the last commercial property on an exit before the County border, but that's a reason to deny because of the scenic corridor overlay on I-17 and the lack of population at that exit. She doesn't understand the purpose of putting this billboard at an exit when there's no businesses there. The New River Area Plan outlined this scenic corridor and the updated plan is being released next week. They received input from the public and the plan will retain the scenic I-17 and New River Road corridors. They are discouraging off-site advertising, and will allow signage that only matches landscape and landmark signage, and no billboards. She requests the Board deny this request.

Mr. Michael Vannoy said part of the danger since they are down in a hole to get back on I-17 north is all uphill. He knows from pulling a trailer it's hard to get your speed up and there's drivers doing 82 mph. It is a truck stop for gas and they are pulling out of there doing 45 mph. That's why it is dangerous right there. The billboard they want is the largest available at 48'x14' and a standard size is more like 10'x22', so let them keep it to the standard size billboard. The variance will make it gigantic and then they want it skyscraper high at 80 feet. This will be two billboards, not just one so it will look like a humongous structure. That's part of the damage it will do to the area, and you would be able to see a standard size sign just fine. He asks the Board to decline this request.

Ms. Sally Sokel said she's been a resident of New River since 1981 and she agrees with all the speakers that are opposed. She lives five miles from the gas station and at night it is a gigantic beacon. She is concerned with the night sky. She wants to express her opposition and she hopes the Board would take into consideration what the New River resident's desire for their community.

Mr. Ross Potter said he lives on the west side of I-17 and the Shell station is in his backyard. The sign they want to put up is 672 square feet bigger than some of the houses people live in. There are a lot of people in this town that don't make a lot of money and he is concerned about the property value. There is no relief for us if this kind of building continues out there which will depresses our property values. They knew what this site was when it was purchased and they knew what had to be done to put a billboard in there, so why did they buy the property in the first place. There is a chance with the new text amendment the New River Plan scenic corridor will eventually be codified as part of the zoning ordinance. They are trying to get this billboard

up with this variance before that should happen. If that does occur it will set a precedent that we will never be able to change. New River is a beautiful country town and it would be nice to have this gateway into Phoenix and Maricopa County to remain the beautiful country town that it is. He asks the Board to deny this request.

Ms. Oberholtzer said we have a fundamental disagreement and that they are opposed to billboards. We are not here today to determine if this is an appropriate location for a billboard, it is an allowed use and it would still continue to be an allowed use in the text amendment that's being debated. The question is would it be able to convert to digital and be of an increased size under that text amendment, it would not. The increased size is related to those same traffic safety standards and the industry standard has been developed at 14'x48' for freeway billboard signs because of those uniform traffic code safety standards regards to speed and size. Going to that size is so it's only visible at the safest amount possible. We are the only commercial zoned property for a great distance and billboards are not intended to advertise business onsite but businesses offsite. They are a useful tool to advertise on a static billboard which is a poster, not a changeable message display. There are residences on the west side of the freeway and the code requires you must have a minimum separation between a billboard and a residential district of 100 feet if not lighted and 150 feet if lighted, and we far exceed that. The other billboard is in the City of Phoenix and its 4,300 feet to the south of this sign.

Member Ward asked what is the population of New River. Chairman Loper said a member in the audience said about 15,000 as of the last census.

Chairman Loper said the existing Shell sign is considered an onsite advertising sign and it may look like a billboard to some but it's not. Mr. Gerard said that is correct.

Chairman Loper said the height was allowed because of the ability to do the cell tower whether it exists or not but was the premise. Mr. Gerard said it was constructed with the internal antenna and whether it's in use he has no idea.

Chairman Loper asked are they in compliance of the lighting regulations? Mr. Gerard said it is in full compliance of the zoning regulations.

Chairman Loper said he's been driving I-17 most of his life, and sometime its 15 mph and sometimes its 90 mph, and this is a difficult intersection. He personally is not a fan of billboards because they are along routes he drives often but has found when he is driving in areas he is not as familiar with they are very handy. Nothing he hates more is a sign that draws his attention to it but he really can't see it. If he can't see it he is going to look longer and probably create more of a danger to traffic and himself. He does believe the freeway height is a hardship and some areas that are constrained by topography. They do meet the setbacks, and he is appreciative with the lighting and they are not doing a digital billboard. He did notice not having a digital billboard is not a stipulation if approved or if we can ask for that. Mr. Peck said digital billboards are not allowed in Maricopa County.

Chairman Loper said it appears this billboard is in line of sight of the existing sign where you don't have to look away to see the second sign. He does agree it's a visually constrained site by virtue of the height of the freeway and the design of the interchange. He is in support of this particular location and he is not worried about precedent because of the constraints of zoning and the New River Area Plan.

**BOARD ACTION: Chairman Loper motioned to approve BA2019019 with conditions 'a'-'f' with modifications to condition 'e'. Member Ward second. Approved 2-1-2 (Morris & Cardon).**

- a) General compliance with the site plan stamped received April 17, 2019.
- b) Light fixtures shall be limited to two fixtures per side.
- c) Lighting for the billboard shall conform to all applicable lighting regulations and shall not exceed the height as approved.
- d) Lighting shall be turned off at 11:00 p.m.
- e) All required building permit for the proposed development shall be applied for within ~~120~~ **180** days of the hearing date unless otherwise directed by the Board. Failure to apply for any required building permit within the specified time, or to complete necessary construction within one year from the date of approval, shall negate the Board's approval.
- f) Satisfaction of all applicable Maricopa County Zoning Ordinance requirements, Drainage Regulations, and Building Safety codes.

<b>BA2019022</b>	<b>Kieselberg Property</b>	<b>District 3</b>
<b>Applicant &amp; Owner:</b>	Jon Kieselberg	
<b>Location:</b>	26112 N. 7 <sup>th</sup> Ave. – 7 <sup>th</sup> Ave. & Jomax Rd. in the Phoenix area	
<b>Zoning:</b>	Rural-43	
<b>Request:</b>	Variance to permit: 1) Proposed front setback of 50.29' where 73' is the minimum permitted	

Chairman Morris and Member Cardon returned to the hearing.

Mr. Smith presented BA2019022 and noted there's no violation and no opposition. The reason this is before you again is because the applicant was unable to meet stipulation 'b' to obtain a building permit within the allotted time.

Mr. Jon Kieselberg, the property owner, said they had a delay with their architect which delayed them submitting for the permit not realizing the timeframe passed. They are asking for approval again, and this has been submitted and they are getting ready to submit the plans for the revisions next week.

Chairman Morris asked if there's been any changes since your original application. Mr. Kieselberg said no.

Member Loper asked if they will be able to get it constructed in a year from the date of approval, since the plan approval itself may be another 30 to 90 days out or more. Mr. Kieselberg said yes.

**BOARD ACTION: Member Cardon motioned to approve BA2019022 with conditions 'a'-'c'. Member Loper second. Approved 5-0.**

- a) General compliance with the site plan stamped received May 10, 2019.
- b) All required building permit 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 permit 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.

**Election of Officers**

**BOARD ACTION: Member Cardon motioned to elect Member Loper for Vice Chair. Member Ward second. Approved 4-1.**

**Adjournment:**

Chairman Morris adjourned the meeting of June 20, 2019 at 11:30 p.m.

Prepared by Rosalie Pinney  
Recording Secretary  
June 20, 2019