



BOARD OF ADJUSTMENT
MARICOPA COUNTY, ARIZONA
205 W. Jefferson Street, Phoenix, Arizona
and by GoToWebinar

MINUTES
January 15, 2026

CALL TO ORDER: Chairman Loper called the meeting to order at 10:00 a.m.

MEMBERS PRESENT:

In-person
Mr. Greg Loper
Ms. Suzanne Klapp, Vice Chair

GoToWebinar
Ms. Heather Personne, Chair (left @ 10:49 a.m.)
Mr. Adam Baugh
Ms. Fern Ward

STAFF PRESENT:

Mr. Tom Ellsworth, Planning & Development Director
Mr. Darren Gérard, Planning Division Manager
Ms. Rachel Applegate, Planning Supervisor
Mr. Ron Quarles, Senior Planner
Mr. Daniel Johnson, Planner
Mr. Joel Landis, Planner
Mr. Andrew Lorentzen, Planner
Mr. Nick Schlimm, Planner
Ms. Evelyn Amekudzi, Intern
Ms. Nadia Barragan, Management Analyst
Ms. Rosalie Pinney, Recording Secretary

COUNTY AGENCIES:

Mr. Max Carpinelli, County Attorney
Mr. David Anderson, OET / Technical Team
Mr. Martin Camacho, Media Specialist

AGENDA ITEMS: BA250067, BA250071, BA250073, BA250074, BA250075, BA250077, BA250079, BA250080

2026 BOARD OF ADJUSTMENT ELECTION OF OFFICERS:

BOARD ACTION: Chairman Loper nominated Vice Chair Personne to serve as Chair, second by Member Ward. 5-0. Ayes: Baugh, Klapp, Ward, Personne, Loper.

BOARD ACTION: Chairman Loper nominated Member Klapp to serve as Vice Chair, second by Member Ward. 5-0. Ayes: Baugh, Klapp, Ward, Personne, Loper.

Acting Chair Loper made the standard announcements and asked if there were any changes or comments to the minutes for December 11. None.

BOARD ACTION: Acting Chair Loper approved the December 11, 2025 minutes as written.

APPROVAL OF MARICOPA COUNTY BOARD OF ADJUSTMENT BYLAWS:

BOARD ACTION: Member Baugh made a motion to approve the Bylaws as amended. Member Ward second. 5-0. Ayes: Baugh, Klapp, Ward, Personne, Loper.

REGULAR AGENDA

BA250067 223 Saddle Mountain LLC Property District 3
Applicant: Cutter Zaug, Allen Consulting Engineers
Location: APN 211-73-023C @ 223 W. Saddle Mountain Rd. – Saddle Mountain Rd. and 3rd Ave., in the Desert Hills area
Request: Variance to the development standards of the Maricopa County Zoning Ordinance to permit:
1) Proposed front setback of 42’ where 80’ is the minimum permitted per MCZO Article 503.4.1.a & Article 1105.2

Mr. Johnson presented BA250067 and noted this is a proposal for a front yard setback of 42 feet, where 80’ is the minimum permitted per Maricopa County Zoning Article 503.4.1.8 and Article 1105.2. The site is approximately one acre in size and zoned RU-43. The applicant is proposing to reduce the 40-foot front yard setback to maintain the development of a primary residence outside the floodplain that encumbers the southern portion of the parcel. The primary residence is proposed to be set back two feet from the 40-foot ingress/egress and public utilities easement identified as Saddle Mountain Road. Where an additional 40-foot setback would be required for a total of 80 feet from the northern property line. The parcel is significantly uncovered by floodplain and floodway delineations present along the southern 137 feet of the parcel, together with a significant midsection line setback required at the north that requiring the total of 80 foot from the northern property line. These conditions together are an obstacle for reasonable development of the lot. The building permit has unsuccessfully gone through five review cycles in the attempts to accommodate the required setback and maintain the appropriate drainage conditions. The applicant has not exhausted all administrative remedies to reduce the midsection line reservation with MCDOT, currently in process. Staff are also concerned that a two-foot setback from a future collector route would present a public safety concern. The only other property at the southwest corner of Saddle Mountain Road and Central Avenue has obtained a reduction in the additional setback for saddle mountains from 40 feet to 25 feet. If the area reserved for future right of way were to be reduced, it's likely the floodplain and the floodway at the southern end of the parcel would still require an adjusted variance reduction in the front yard setback to reasonably accommodate the single-family residents.

Mr. Cutter Zaug said he is the civil engineer on the project. After going through this with the reviewers’ multiple times, they agree that this is the best solution for the lot to alleviate this hardship on the lot from this wash. It's approximately 1200 CFS coming in on the south boundary line, which makes over half of the property unusable due to the financial hardships to get it to work and without increasing or adversely impacting adjacent properties due to the increase of fill. The intent is to move this house as far away as possible so that we don't adversely impact adjacent properties and can still build on the property. We had multiple meetings and all three reviewers recommended that this would be the best solution.

Acting Chair Loper said it was mentioned that you are seeking a reduction through MCDOT and asked where you are in that process. Mr. Zaug said his client was going through that process and he wasn't informed of any solutions or whether it was approved or not at this time. He can try to get that information back to staff.

Acting Chair Loper asked if anyone else from the public wished to speak on this case. None.

BOARD ACTION: Chair Personne motioned to approve BA250067 with condition 'a'. Member Baugh second. Approved 5-0. Ayes: Baugh, Klapp, Ward, Personne, Loper.

- a) Variance approval establishes a 42' setback line from the northern property line (or 2' from the street line due to 40' future right-of-way reservation for a mid-section alignment) for APN 211-73-023C.

BA250071 Stephen's Residence District 3
Applicant: Reuel Moser, Rimrock Design Enterprises LLC
Location: APN 202-25-021E @ 49450 N. 15th Ave in the New River area
Requests: Variance to the development standards of the Maricopa County Zoning Ordinance to permit:
1) Proposed street side setback of 15' where 20' is the minimum permitted per MCZO Article 503.4.1.C
2) Proposed rear setback of 30' where 40' is the minimum permitted per MCZO Article 503.4.3

Mr. Quarles presented BA250071 and noted the request is for a variance to the development standards of the zoning ordinance for proposed street side setback of 15 feet where 20 feet is the minimum permitted and for a proposed rear setback of 30 feet where 40 feet is the minimum permitted. The property is located in the New River area and is zoned Rural 43. The lot is currently 78,147 square feet. The applicant is requesting these two variance approvals to recognize and authorize the encroachments that resulted from construction of a covered patio back in 2017 or 2018 without permit approvals. The residence was originally constructed in 1988 without patio coverings. These more recent additions occurred prior to ownership. The current owner is proposing to construct an addition on the south side of the existing residence that will not encroach into any setbacks and will not require any variances. The approvals that you're considering would simply grant the existing encroachments that have already occurred on the north and west sides. The applicant desires to move forward with construction on the south side without these encroachments hindering that process. Based upon the applicant's submittal and staff analysis, staff was unable to identify a particular condition of the property that rendered the existing covered patio additions as unavoidable or necessary when constructed. The site is not constrained by any physical features that affect the construction of these coverings, and the applicant has failed to demonstrate the general intent of the zoning ordinance will be preserved by the approval of these variances. If the Board decides and finds that the applicant has satisfied the statutory test, staff is recommending the Board consider notation 'a', paragraph 16, which states that the variance approval establishes a 15-foot north street side and a 30-foot rear setback for the subject property. Staff did include six letters of no opposition from nearby property owners as a part of this application.

Chair Personne asked is the existing residence requiring the variances. The new addition is not going into the setbacks, but they're requesting the variance because they're anticipating a comment during plan review. Mr. Quarles said that is correct. The coverings that were constructed without building permits back in 2017, 2018 are the only parts of the structure that encroach. The proposed addition would not encroach into any setbacks.

Mr. Reuel Moser the applicant said he doesn't have anything additional to say. Staff did a good job putting all this together. He wanted to make sure the Board has the letters that Mr. Stevens did get from his neighbors. What is existing is not going to be changing; we need the variance to move forward with the proposed addition.

Acting Chair Loper asked if anyone else from the public wished to speak on this case. None.

Chair Personne said she does not have any issues with this considering that it was a prior condition. The owner is trying to get everything memorialized through this process and the new addition doesn't exacerbate the issue.

BOARD ACTION: Chair Personne motioned to approve BA250071 with condition 'a'. Vice Chair Klapp second. Approved 5-0. Ayes: Baugh, Klapp, Ward, Personne, Loper.

- a) Variance approval establishes 15' (north) street-side and 30' (west) rear setback lines for APN 202-25-021E.

BA250073	Prieto Property (Lot 4)	District 4
Applicant:	Sonia Prieto	
Location:	APN 504-12-238 - approx. 737' north of the NEC of 351 st Ave. & Buckeye Rd. in the Tonopah area	
Requests:	Variance to the development standards of the Maricopa County Zoning Ordinance to permit: 1) Proposed lot area of 43,550 sq. ft. where 43,560 sq. ft. is the minimum required per MCZO Section 502 2) Proposed lot width of 132' where 145' is the minimum required per MCZO Section 502	

Mr. Schlimm presented cases BA250073, BA250074, and BA250075 and noted these requests are to establish an area of less than 43,560 square feet and a width of 132 feet on each of three properties owned by Sonia and Martin Prieto, where 43,560 square feet and 145 feet, respectively, are the minimums required in the Rural-43 zoning district. The three properties were created via lot split alongside two other parcels, both of which are similarly substandard in width and area. The applicant owns four of these five parcels. Staff remind the Board that the applicant was granted variance for the southernmost of these parcels last year with case BA250001. As previously discussed at the hearing of that case, the record of survey labeled each of the prospective lot split parcels as measuring 1.00 acre. However, this was misleading, as each parcel actually measured slightly less than the minimum required 43,560 square feet. The applicant originally owned all five parcels, but by the time the error was realized, the middle lot had been sold to another owner. Before the Board's determination of the request for that southernmost parcel, staff recommended the applicant negotiate with the other owner regarding the possibility of acquiring more land within the lot split area that way, the parcels could be re-recorded to meet area and width requirements. The applicant informed staff that the other owner refused to discuss or negotiate any such options. The Board did approve the applicant's variance request for her southernmost parcel in May 2025. The three requests before you today are for the remaining three parcels owned by the applicant and are near-identical to the request approved with BA250001. Staff are unable to identify any undue hardship created by the enforcement of the Zoning Ordinance. The substandard lots were avoidable, having been created in the line of title due to poor lot-splitting practices. There is a wash that could potentially impact the location of future construction on these properties, particularly the northernmost parcel subject to BA250075. No site plans have been submitted illustrating proposed development, and the owners have not requested setback variances for any of these properties. Without a site plan showing proposed development, staff cannot speculate an appropriate setback variance from any lot line should the Board approve any of these requests. Aside from the wash, none of the three parcels appears to possess any other conditions that may be considered peculiar. If the Board finds the applicant has satisfied the statutory test for each request and has stated its findings on the record, the granting of these variances will memorialize items 'a' and 'b' as outlined in paragraph 22 of each staff report. Each variance case must be subject to a separate motion.

Ms. Sonia Prieto the property owner said she doesn't have any questions or comments.

Acting Chair Loper asked if anyone else from the public wished to speak on these cases. None.

Acting Chair Loper said due to statutory restrictions, there's not the ability for the County to regulate these. There's not any recourse for an unsuspecting property owner to correct these when there's an error made by the surveyor, it's not her fault.

BOARD ACTION: Acting Chair Loper motioned to approve BA250073 with conditions 'a'-'b'. Member Ward second. Approved 5-0. Ayes: Baugh, Klapp, Ward, Personne, Loper.

- a) Variance approval establishes a 43,550-square-foot lot area for APN 504-12-238.
- b) Variance approval establishes a 132-foot lot width for APN 504-12-238.

BA250074 Prieto Property (Lot 2) District 4
Applicant: Sonia Prieto
Location: APN 504-12-240 - approx. 1,001' north of the NEC of 351st Ave. & Buckeye Rd. in the Tonopah area
Requests: Variance to the development standards of the Maricopa County Zoning Ordinance to permit:
1) Proposed lot area of 43,547 sq. ft. where 43,560 sq. ft. is the minimum required per MCZO Section 502
2) Proposed lot width of 132' where 145' is the minimum required per MCZO Section 502

BOARD ACTION: Acting Chair Loper motioned to approve BA250074 with conditions 'a'-'b'. Vice Chair Klapp second. Approved 5-0. Ayes: Baugh, Klapp, Ward, Personne, Loper.

- a) Variance approval establishes a 43,547-square-foot lot area for APN 504-12-240.
- b) Variance approval establishes a 132-foot lot width for APN 504-12-240.

BA250075 Prieto Property (Lot 1) District 4
Applicant: Sonia Prieto
Location: APN 504-12-241 Approx. 1,133' north of the NEC of 351st Ave. & Buckeye Rd. in the Tonopah area
Requests: Variance to the development standards of the Maricopa County Zoning Ordinance to permit:
1) Proposed lot area of 43,546 square feet where 43,560 square feet is the minimum required per MCZO Section 502
2) Proposed lot width of 132 feet where 145 feet is the minimum required per MCZO Section 502

BOARD ACTION: Acting Chair Loper motioned to approve BA250075 with conditions 'a'-'b'. Member Ward second. Approved 5-0. Ayes: Baugh, Klapp, Ward, Personne, Loper.

- a) Variance approval establishes a 43,546-square-foot lot area for APN 504-12-241.
- b) Variance approval establishes a 132-foot lot width for APN 504-12-241.

BA250077 Amarel Property District 2
Applicant: Michelle Green, Lazarus & Silvyn, P.C.

- Location:** APN 219-39-241B @ 13839 E. Casey Ln. in the Rio Verde foothills area
- Requests:** Variance to the development standards of the Maricopa County Zoning Ordinance to permit:
- 1) Proposed west street-side setback of 3' where 20' is the minimum permitted per MCZO Section 502.
 - 2) Proposed east street-side setback of 10' where 20' is the minimum permitted per MCZO Section 502.

Mr. Schlimm presented BA250077 and noted this is a request to establish a west street-side setback of 3' and an east street-side setback of 10' both measured from the street line on the Amarel Property, where 20' is the minimum required in the Rural-43 zoning district. A single-family residence was developed onsite in 2004. Now, the owner is proposing to build a detached accessory dwelling unit toward the west side of the property and a swimming pool with a ramada toward the east side of the property. Though the property is generally typical of the Rio Verde Foothills, perhaps its least typical characteristic is that it features street frontage along three of its four lot lines. The north lot line along Casey Lane is the shortest, making it the front. The west and east lot lines, with frontage along 138th Way and 139th Street are the street-sides. If not for the street-side easements, the proposed improvements would be allowed by-right where proposed, since detached accessory improvements can be located within interior side yards. The ADU would include an RV garage that would connect to the main driveway, which itself connects to the street along the west, meaning that the intended location for the ADU is tied directly to the west being a street-side. Assuming the property owners proceed with the proposed swimming pool, there does not appear to be a feasible alternative location for the detached ADU that does not encroach on the existing west setback, on a wash that bisects the property, and/or within 3' of the primary residence. The only alternative besides variance would be to attach the ADU to the residence. This would require extensive remodeling, as well as relocating AC units and electrical panels located on the west side of the house. If the pool were to be abandoned, the ADU could be reoriented toward the east side of the property with driveway access to 139th Street versus sharing a driveway with the house to 138th Way, since the MCZO allows one driveway per street. Staff notes that the development of a primary residence means the property already fulfills the general intent and purpose of the MCZO. Variances to accommodate accessory uses arguably do not fulfill this requirement. As for the poolside ramada, based on review of the site plan and site aerials, it seems the ramada could be relocated 10' further west to prevent need for variance to the east setback.

Acting Chair Loper asked you'd mentioned earlier that they would negate the variance request if they were able to attach it. Mr. Schlimm said based on his analysis of the site plan, it did seem if they were to keep the dimensions of the ADU and the RV garage about the same and shift it to such that it were to be attached to the residence that would be outside the existing 20-foot street side setback but would require extensive remodeling on the owner's part.

Member Baugh asked if they didn't have streets on the 139th and 138th, what would the setback on the side yards be. Mr. Schlimm said originally with the previous zoning ordinance, the setbacks for interior side yards were 30 feet, and with the updated ordinance, they have been reduced to 20 feet. With a detached accessory structure, if they were interior side yards, they would be allowed in the side yard setbacks as long as they're at least three feet away from the property line of fire rated.

Mr. Larry Lazarus representing the property owner said to reduce the side yards of the single-family corner lot, in this case we're reducing the yard setbacks 10 feet along 139th on the eastern property and we're asking where 20 feet would be required and three feet along the 138th Way on the western side of the property which 20 feet would be required. The property is in a residential subdivision with an average lot of one acre. The City of Scottsdale and the McDowell Sonoran Preserve are on the west. The McDowell Mountain Regional Park is to the south with the Tonto National Forest to the north and east. Our client

intends to improve the property by adding an accessory building, a pool, and a ramada to the rear yard. On the west side of the property, there's a 20-foot private driveway easement with 10 feet of that on the Amarel property, and 10 feet on the neighboring property. On the east side of the property, there's a 20-foot private driveway easement that is entirely on the neighbor's property. Under the county ordinance, these easements are considered streets, and the setbacks must be measured from the easement line. Our client reached out to the county staff late 2024 to get advice on how to proceed with the construction plans for pool and ramada, because of the wash on the property restricted the potential locations of these, and he needed to reduce these setbacks to three feet and 10 feet as indicated. He was given instructions by staff that if he recorded a non-vehicular access easement on the property, this would resolve the issues with the side yard setbacks on the property, and these would no longer be street frontage. He then drafted and recorded a vehicular non-access easement and subsequently submitted the plan for approval. Staff comments on the site plan stated that even though the vehicular non-access easement was recorded, the property would still need to comply with the side yard setback requirements or obtain a variance, which was different when the staff indicated initially. Our client then contacted the planning manager and confirmed that the information that originally supplied to the client was an error and now he needed to apply for a variance. There is a wash that cuts through the southwest corner of the property significantly reducing the developable area of the property. The wash limits the structures as they can be located on the lot. The proposed accessory building is located as close to the wash as it possibly can and it cannot be moved further south. The structure cannot be moved further east because of the location of the main house. If the ADU were moved closer to the residence as noted by staff it would require extensive remodeling and relocation of the air conditioning units and electrical panels located on the west side. The ramada on the east side of the property is encroaching 10 feet to the side yard setback because of the wash and the location of the pool. The second peculiar condition is the lot bounded by streets on three sides. Having streets on three sides of the property is not typical as noted by the staff. We believe that not granting these variances will cause undue hardship for our client and the peculiar conditions were not created by the property owner. Granting the variance would not cause a negative impact on the intent and purpose of the ordinance because ultimately the required separation between buildings intended by the ordinance is achieved and even exceeded. In this case, there are two private drives along the side yards that will help create the building-to-building separation distance intended by the ordinance. If the variance were approved, we'd have a building setback of three feet from the private drive easement of 138th Way. Add that to the 20 feet for the private drive easement, which cannot be built upon, and then add the required setback on the adjacent property you'd have a total of 43 feet building to building setback. Under normal circumstances without a private drive, you would only have 40-foot building setbacks from the two 20-foot required setbacks. Because the lots on the east side of the property front on 139th Street a private drive and a required front lot setback is 40 feet This is double the 20 feet that would be required if the private drive were not there. If this variance were approved, we would have the 10 foot setback on our client's property, 20 foot of private drive that can't be built upon, and a 40 foot front yard setback on the neighbor's property, which would provide 70 feet building to building separation when under ordinary circumstances, a total of 40 feet building to building would have occurred.

Vice Chair Klapp said staff recommended that the Ramada could be moved 10 feet to the west and there would be no requirement for a variance, and it can't be moved because of the wash, but it's above a wall. She doesn't see where the wash really has any impact on whether the ramada could be moved a little bit to the west. She asked as to why it's sitting there rather than aligned with the edge of the pool. Mr. Lazarus said the roadway itself provides a substantial amount of setback. We're talking about 70 feet. Vice Chair Klapp asked why the ramada has to be so far to the east and why it couldn't be moved a little bit to the west. Mr. Lazarus said he's not sure and he's not architecturally capable of answering that question.

Acting Chair Loper asked if anyone else from the public wished to speak on this case. None.

Mr. Lorentzen presented BA250080 and noted is a request to allow an accessory dwelling unit to occupy 41% of a rear or side yard where 30% is allowed by the MCZO. The parcel is zoned Rural 43 and is located in the northeast corner of Central Avenue and Tumbleweed Drive in the Carefree Highway area. The parcel is just under one acre at 43,522 square feet and was granted a building permit after an oversight on a submitted building plan showing an incorrect lot size of 43,560 square feet in January of 2021. The applicant proposes to construct a 2,631 square foot structure that would occupy approximately 41% and be located entirely within the rear yard area. The structure is slated to be approximately nine feet from the rear parcel boundary. Staff find no remarkable issues or unnecessary hardships with the parcel and any reason why the structure cannot be placed forward to meet the 30 percent rear yard occupancy requirement.

Acting Chair Loper asked is this just slightly undersized but not sufficiently so that would account for the 9% overage for the lot coverage. Mr. Lorentzen said the oversight in the size was more of a building permitting issue that all the correct dimensions were provided. The ultimate final lot size was just incorrectly given, and we permitted the structure as it was. It is a legal buildable lot due to legal nonconforming. We are asking the Board to just memorialize that legal nonconforming.

Mr. Shandor Collins the homeowner said he is requesting this variance because he is relocating his parents from Washington State down to Phoenix. His mom currently has advanced dementia and would like the casita a bit bigger to accommodate his mom to get around with her walker. We have oversized bathrooms, and oversized living space. It also has a secondary bedroom for family to come and stay with us to be able to see them. The variance is a little bit over what would normally be allowed, but it does not impact any of the existing neighbors who are all for it. He is asking for leniency from the Board and hopefully it gets approved. At some point we would like to add a pool. As shown in the drawings there's a septic field and some other stuff that it would impact if we had to shift the structure.

Acting Chair Loper asked if anyone else from the public wished to speak on this case. None.

Member Baugh asked is the only variance being requested the square footage of the rear structure. Mr. Gérard said yes that's the only variance request as part of the variance we're memorializing a LNC condition. Member Baugh asked so the 41% would become the new lot coverage for the property if this variance was approved. Mr. Gérard said 41% becomes the maximum yard coverage for the rear yard, the lot coverage remains 25% maximum.

BOARD ACTION: Acting Chair Loper motioned to approve BA250080 with conditions '1' -'2'. Member Ward second. Approved 4-0. Ayes: Baugh, Klapp, Ward, Loper.

- 1) Variance approval establishes a rear yard coverage of 41% on APN 211-24-032Q.
- 2) Variance approval memorializes legal non-conforming status of a 43,522 sq. ft. lot area on APN 211-24-032Q.

Adjournment: Acting Chair Loper adjourned the meeting of January 15, 2026, at 10:59 a.m.

Prepared by Rosalie Pinney
Recording Secretary

January 15, 2026