

**COCONINO COUNTY
BOARD OF ADJUSTMENT**

AGENDA

Meeting of March 17, 2020- 3:00 P.M.
THOMAS AUDITORIUM
2500 N. Fort Valley Road, Building 1
Flagstaff, Arizona 86001

Pursuant to A.R.S. §38-431.02, notice is hereby given to the members of the Board of Adjustment and to the general public that, at this regular meeting, the Board of Adjustment may vote to go into executive session, which will not be open to the public, for legal advice and discussion with the Board's attorneys on any item listed on the following agenda, pursuant to A.R.S. §38-431.03(A) (3). Items may be taken out of the order listed below at the call of the Chair.

ROLL CALL

Dianne Patterson, Chairperson
Craig Bearchell, Vice-Chair

John McCartney
Chris Wannie

I. APPROVAL OF MINUTES

1. Minutes from the Meeting of February 18, 2020

II. PUBLIC HEARING

1. Case No. VAR-20-003: A Variance is requested from Section 2.2.D(3) of the Zoning Ordinance to allow for a 2.04 acre parcel and a 1.93 acre parcel in the AR-2 ½ (Agricultural Residential, 2.5 -acre parcel size minimum) Zone where the required minimum parcel size is 2.5 acres. The subject properties are located at 7360 and 7380 Slayton Ranch Road in Doney Park and are also identified as Assessor's Parcel Numbers 303-15-058A and B, respectively.
Owners/Applicants: James and Robyn Herre- Flagstaff AZ and Matthew and Jini Maxwell-Flagstaff, AZ
Supervisor District: 4 (Jim Parks)

III. ADJOURNMENT

COCONINO COUNTY BOARD OF ADJUSTMENT

Minutes - Meeting of February 18, 2020 at 3:00pm

Thomas Auditorium
2500 N. Fort Valley Road, Building 1
Flagstaff, Arizona

MEMBERS PRESENT

Dianne Patterson, Chairperson
Craig Bearchell, Vice Chair
John McCartney
Chris Wannie

MEMBERS ABSENT

COUNTY STAFF PRESENT

Zach Schwartz, Senior Planner
Marty Hernandez, Recording Secretary

Chair Patterson called the meeting to order at 3:00PM.

I. APPROVAL OF MINUTES

The first item on the Agenda was approval of the Minutes of November 19, 2019.

MOTION: Mr. Bearchell moved to approve the Minutes once the name was corrected as to who spoke. The Motion was seconded by Mr. McCartney. The Minutes were approved unanimously.

II. PUBLIC HEARINGS

The next item on the Agenda was Case No. VAR-20-002.

STAFF: Mr. Schwartz gave a PowerPoint presentation and summarized the staff report.

DISCUSSION: Mr. Wannie asked what it meant to be signed in counterpart. Mr. Pilcher stated it basically meant the signatures were obtained electronically, as the parties were not present together.

Discussion focused around how this occurred and where the piece of land was isolated and bisected by the railroad from the original 10-acres. Mr. Bearchell asked what steps that could be taken in the future to be more proactive in preventing this. Mr. Schwartz stated that the departments were working more closely together so that people would not go record surveys of splits without Community Development approval. Community Development, Assessor, and Recorder would

soon be in the same building.

APPLICANT: Todd and Anjanette Pilcher, 2501 W. Rte. 66 No. F14 Flagstaff, AZ, were present. Chair Patterson asked if they had a real estate agent. Mr. Pilcher stated the seller did, but they did not. The listing agent was Coldwell Banker and the agent stated the coordinates were wrong, but the property was grandfathered in. The owner had inherited the property. The Pilchers were under the assumption that all of that took place prior and whatever they did was legal and grandfathered in as told. The Pilchers were unaware of the changes made to the recorded disclosure documents after they signed. The forms shows that they signed and then the owner signed on a different date. The seller changed some of the disclosure documentation without permission from the Pilchers.

Mr. McCartney asked if the acreage on the other side of the railroad could come up in another case?

Mr. Schwartz stated it should not could up in the future. There was a number of configurations that this land has gone through and the parent parcel to the northwest is over 10 acres as is required by the zone.

Mr. Bearchell asked how this got through, basically an illegal transaction.

Mr. Schwartz said the previous landowner was either unaware or skirted the requirement, when recording. For this case, this is a new property owner trying to do their due diligence and thought everything was legal.

PUBLIC: No one from the public was present to speak.

BOARD: The Board began their discussion. Mr. Bearchell asked if the Board could do anything to prevent contractual events such as this, in the future. He did not feel the Board should decide/be responsible for this. Ms. Patterson stated while staff is trying to figure out how to resolve this for the future, the Board is here to help resolve these issues until processes are in place to prevent cases like this. Mr. Bearchell asked if the Board can do anything to let the title company, real estate agents, others involved know that their actions are illegal. Ms. Patterson said this was not the Board's jurisdiction and the Pilchers will have to handle that.

MOTION: Mr. McCartney moved to approve Case No. VAR-20-002.

SECOND: Mr. Wannie seconded the Motion.

VOTE: The Motion was unanimously approved.

The meeting adjourned at 3:25PM.

ATTEST:

Chairperson, Board of Adjustment

Secretary, Board of Adjustment

 **COCONINO**
COUNTY ARIZONA
COMMUNITY DEVELOPMENT

Jay Christelman, Director

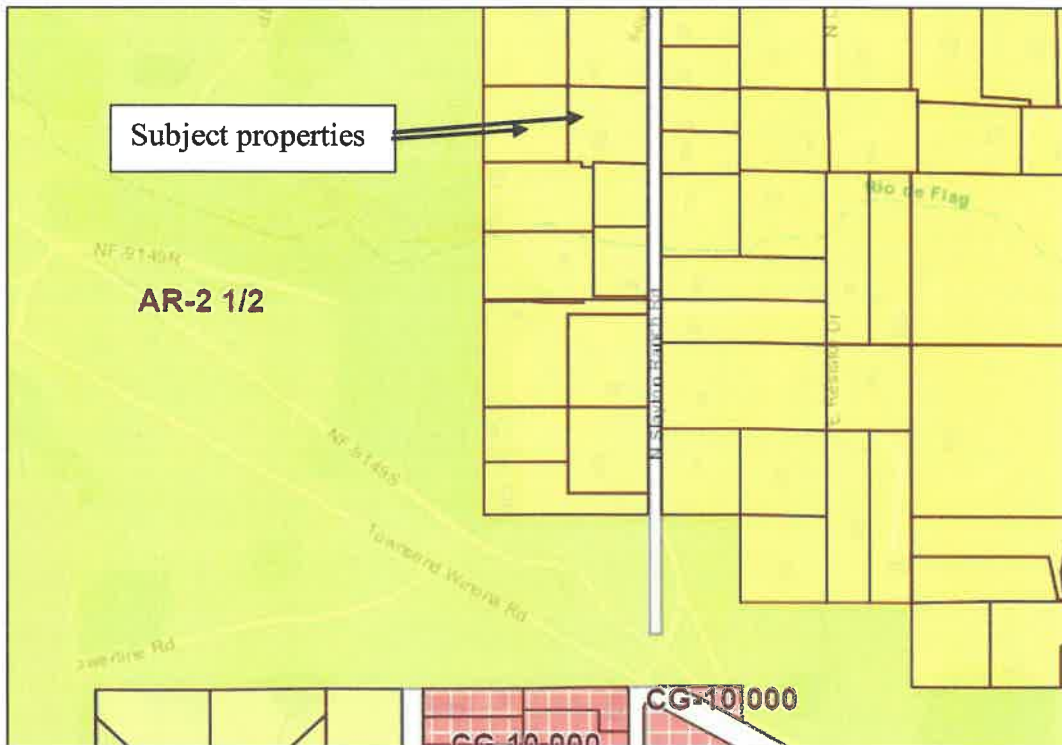
STAFF REPORT

DATE: March 4, 2020

TO: Board of Adjustment

FROM: Department of Community Development

SUBJECT: Case No. VAR-20-003: A Variance is requested from Section 2.2.D(3) of the Zoning Ordinance to allow for a 2.04 acre parcel and a 1.93 acre parcel in the AR-2 ½ (Agricultural Residential, 2.5 -acre parcel size minimum) Zone where the required minimum parcel size is 2.5 acres
Owners/Applicants: James and Robyn Herre- Flagstaff AZ and Matthew and Jini Maxwell- Flagstaff, AZ
Supervisor District: 4 (Jim Parks)



LOCATION: The subject properties are located at 7360 and 7380 Slayton Ranch Road in Doney Park and are also identified as Assessor's Parcel Numbers 303-15-058A and B, respectively.

SUBJECT PROPERTIES AND SURROUNDING LAND USES

The subject properties are a 2.04 acre parcel and 1.93 acre parcel in Doney Park off of Slayton Ranch Road and in the AR-2 ½ Zone. A large natural gas pipeline easement encumbers nearly half of the northern portion of both properties. The western property is vacant and the eastern is currently developed with a single family residence.

Surrounding properties are also in the AR-2 ½ Zone and mostly developed with single family residences. Many of the surrounding properties are also undersized, ranging from 0.95 acres just east across Slayton Ranch Road to 2.4 acres just adjacent to the north of the subject properties. Almost all nearby parcels are legal nonconforming, or ‘grandfathered’, in size because they were created at that size prior to the 2.5 acre parcel size minimum zone requirement that was overlaid on the area in September of 1981.

REQUEST

This request is to legalize two existing parcels that are undersized in the AR-2 ½ Zone. The parcels were created from the same original parcel in 2014.

BACKGROUND

Prior to 2014, the subject properties were a single parcel. One of the co-applicants for the case owned the parcel and requested a Variance from the 2.5 acre parcel size minimum in order to split the property in two and sell a portion. The submitted preliminary survey (see attached) for the Variance case showed a 2.25 acre parcel to be created from the western portion and 2.09 acre parcel to be created from the eastern portion. The Board of Adjustment approved the Variance with these specific acreages in the Resolution for the case (see attached). The applicant’s surveyor then completed a more thorough survey with information from on the ground and the result showed that the split would result in a 2.04 acre parcel for the western portion and a 1.93 acre parcel for the eastern portion. Staff inadvertently overlooked the discrepancy and approved the Land Division Permit which allowed the parcels to be created at sizes under what the Board of Adjustment had approved. Staff currently requires a full survey for every Variance submittal.

Both staff and the original applicant were unaware of the issue until the applicant entered into contract to sell the eastern parcel and an appraiser asked staff if the undersized parcels were legal and buildable.

PUBLIC PARTICIPATION

Staff notified all neighboring property owners within 300 feet of the subject property of this request and did not receive any comments.

FINDINGS OF FACT

Section 5.8.B.4 of the Zoning Ordinance requires the Board of Adjustment to make certain Findings of Fact in order to approve a Variance request. In order to approve the Variance, the Board must make findings of fact that establish that the circumstances prescribed in paragraphs A, B or C and in D and E apply. The Findings are as follows:

- A. That the Variance is necessary for the preservation of substantial property rights and that strict or literal interpretation and enforcement of the specified regulation would result in practical difficulty or unnecessary physical hardship inconsistent with the objectives of this Ordinance.
- B. That there are preexisting exceptional or extraordinary circumstances or conditions applicable to the land or buildings that were not created or self-imposed by the applicant, and that do not apply generally to other properties in the same zone.
- C. That strict or literal interpretation and enforcement of the specified regulation would deprive the applicant of privileges enjoyed by the owners of other properties in the same zone.
- D. That the granting of the Variance as conditioned is the minimum that will accomplish this purpose and will not constitute the granting of a special privilege inconsistent with the limitations on other properties in the same zone.
- E. That the granting of the Variance will not be detrimental to the public health, safety, or welfare, or materially injurious to the public or properties or improvements in the vicinity

Staff is able to make all required Findings of Fact:

- A. **Staff can make this Finding:** The Variance is necessary to legalize both properties at their current size. Staff would typically hold further permits on both properties without approval of this Variance, as the property would not meet the Zoning Ordinance requirements.
- B. **Staff can make this Finding:** The applicant's original intent was to submit for a Variance for the properties as they now exist. Staff overlooked the difference in parcel size from the Board of Adjustment's Resolution acreages because the geometries of the parcels were substantially similar to what the Board had approved. Though the original applicant and applicant's surveyor technically share the responsibility for the discrepancy, staff does consider the original surveying error and the staff-approved Land Division Permit even with the discrepancy as an exceptional circumstance.
- C. **Staff can make this Finding:** Without approval of this Variance, the applicant would not be allowed any of the allowances of the zone.
- D. **Staff can make this Finding:** The granting of this Variance would be the minimum needed to accomplish the purpose of a Variance and would not constitute a special privilege.
- E. **Staff can make this Finding:** The granting of this Variance would not be detrimental to public health, safety, or welfare.

RECOMMENDATION

If the Board of Adjustment is able to make the required Findings of Fact, staff recommends approval of Case No. VAR-20-003 subject to the following conditions:

1. A Variance is hereby approved to allow parcel 303-15-058A at 2.04 acres for parcel where 2.5 acres is typically required in the AR-2 ½ Zone. Any additional reduction in parcel size shall require additional review by the Board of Adjustment.
2. A Variance is hereby approved to allow parcel 303-15-058B at 1.93 acres for parcel where 2.5 acres is typically required in the AR-2 ½ Zone. Any additional reduction in parcel size shall require additional review by the Board of Adjustment.

Respectfully submitted,



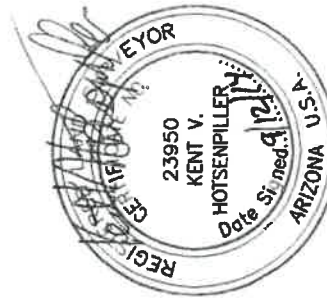
Jess McNeely, AICP, Assistant Director/Planning Manager
Prepared by Zach Schwartz, Senior Planner

Attachments:

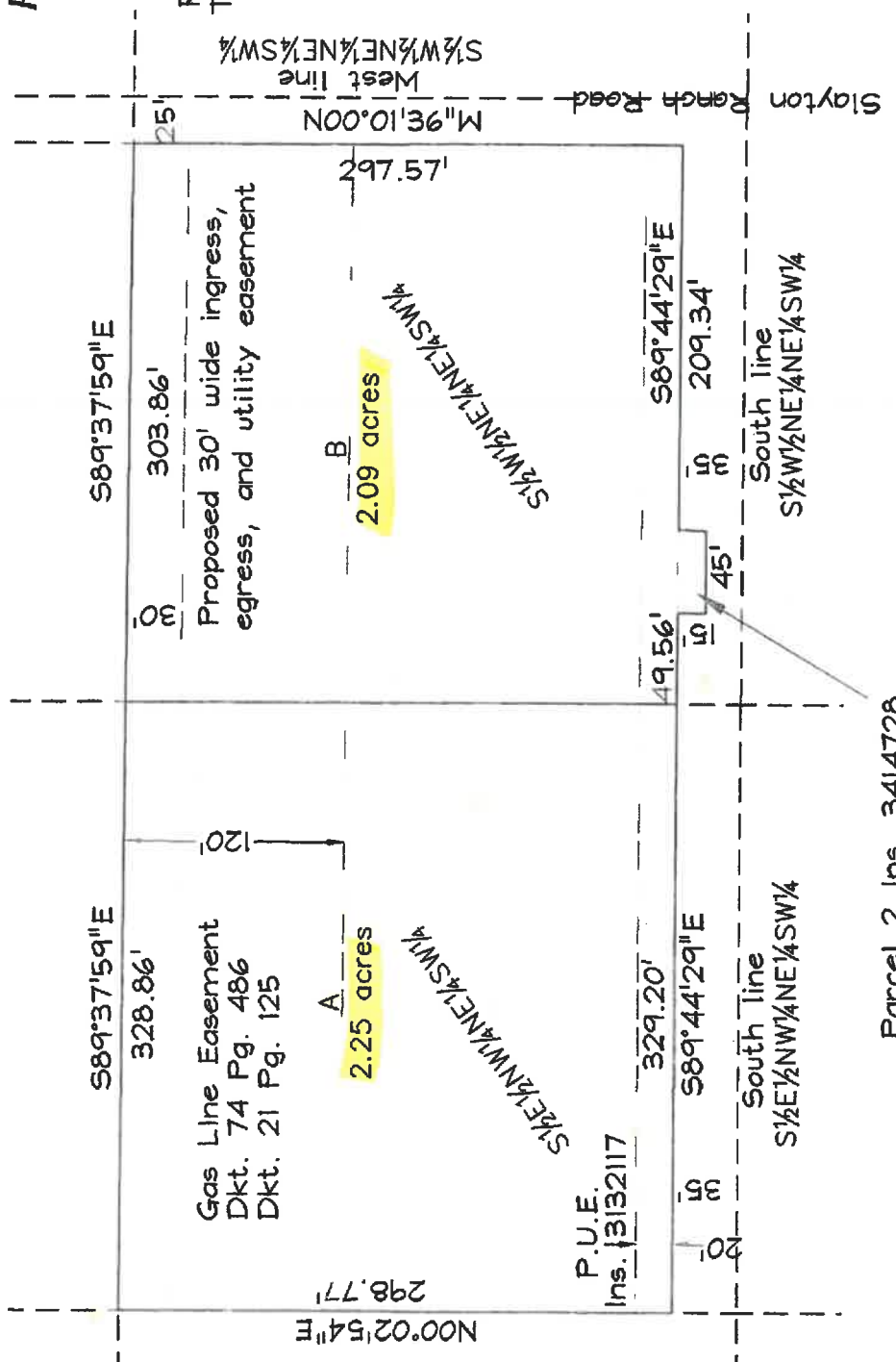
- A. Preliminary survey and complete final survey
- B. Variance Resolution 2014

PROPOSED LOT SPLIT

OF
 INSTRUMENT 3414728
 COCONINO COUNTY
 RECORDS LOCATED IN
 THE SW1/4 SECTION 31,
 T 22 N, R 9 E,
 COCONINO COUNTY,
 ARIZONA



Expires on 3/31/16



Information shown hereon is from
 County Records. No field work was
 performed by **MOGOLLON** Engineering &
 Surveying, Inc.

Exhibit B
 Lot Split
 Ins. 3414728

Mogollon
 ENGINEERING & SURVEYING
 411 N. Santa Fe Avenue
 Flagstaff, AZ. 86001
 Phone: 928-214-0214 • MogollonSurvey.com

Basis of Bearings shown
 hereon Book 9 Page 90

Parcel 2 Ins. 3414728

HORIZONTAL SCALE: 1"=100'
 VERTICAL SCALE:
 DESIGNED/DRAWN BY:
 PROJECT NO. 14130
 DATE: 9/12/14

SCALE: 1"=100'

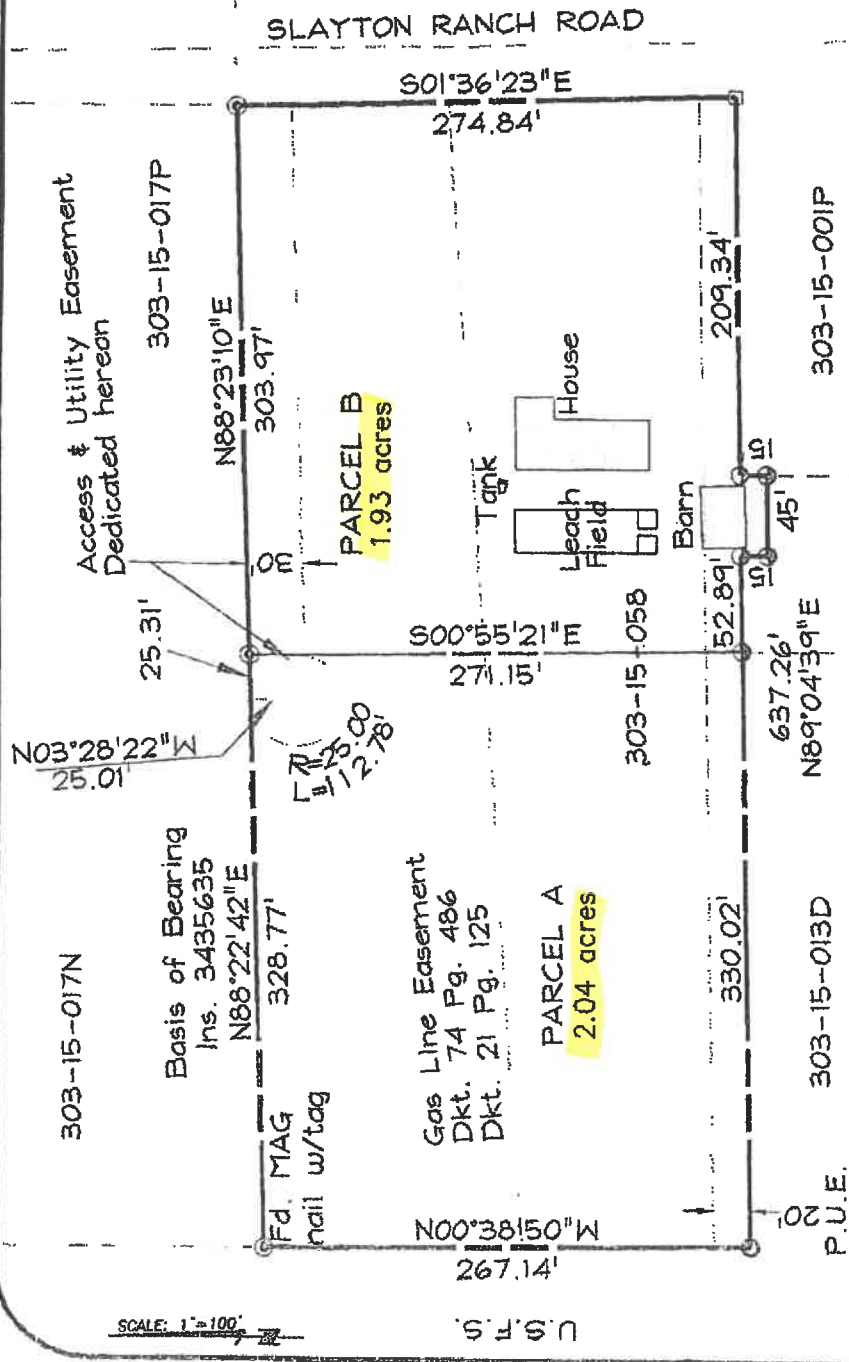
PROPOSED LOT SPLIT

OF
 INSTRUMENT 3414728
 COCONINO COUNTY
 RECORDS LOCATED IN
 THE SW1/4 SECTION 31,
 T 22 N, R 9 E,
 COCONINO COUNTY,
 ARIZONA



Expires on 3/31/18

Survey was performed in December 2014. Information shown hereon is true and correct to the best of my knowledge.



- ⊙ Found rebar with cap LS 16630
- ⊙ Found 1/2" rebar
- ⊙ Found alum cap illegible
- ⊙ Corner to be set

HORIZONTAL SCALE: 1"=100'
 VERTICAL SCALE:
 DESIGNED/DRAWN BY:
 PROJECT NO. 14130
 DATE: 12/22/14

Mogillon
 ENGINEERING & SURVEYING
 411 N. Santa Fe Avenue
 Flagstaff, Az. 86001
 Phone: 928-214-6264 • Fax: 928-214-6264

Exhibit B
 Lot Split
 Ins. 3414728

RESOLUTION NO. 380

A RESOLUTION OF THE
COCONINO COUNTY
BOARD OF ADJUSTMENT

GRANTING A VARIANCE

The Board of Adjustment of Coconino County does hereby resolve:

SECTION 1: The Board of Adjustment does hereby find and determine that an application was duly filed by Matthew Maxwell, Flagstaff, Arizona (Case No. VAR-14-010), with respect to the real property described as follows:

4.34 acres in the AR-2 ½ (Agricultural Residential, 2 ½ acre minimum parcel size) Zone located at 7360 Slavton Ranch Road and identified as Assessor's Parcel Number 303-15-058.

requesting a Variance from Section 18.3(B)(2) to allow a 4.34-acre parcel to be split into a 2.25-acre parcel and a 2.09-acre parcel; that a public hearing was duly set for Tuesday, November 12, 2014, at 3:00 PM in the Thomas Auditorium, 2500 N. Fort Valley Road, Building 1, Flagstaff, Arizona; and a notice of the date, time, place and purpose of aforesaid hearing was duly published; that a hearing was duly held at aforementioned place and time.

SECTION 2: The Board of Adjustment further finds and determines that facts DO exist as required in the Coconino County Zoning Ordinance justifying the granting of a Variance.

SECTION 3: Based on the aforementioned findings, the Board of Adjustment hereby GRANTS, with respect to the real property described in Section No. 1 above, a Variance on Case No. VAR-14-010 subject to the following conditions:

1. A 2.25 acre parcel and a 2.09 acre parcel may be created from the subject property through an approved Land Division Permit. A revised survey map shall be submitted showing the location of all structures on the property prior to approval of the Land Division Permit. If any of the structures are shown to be encroaching into setbacks, the property owner shall move, remove, or demolish the structures from the subject property or apply for any applicable Administrative Adjustments or Variances for the encroachment prior to Land Division Permit approval.
2. The Variance shall lapse and become void one year following its effective date, unless a Land Division Permit is obtained. A one-year extension may be granted if a written request is submitted to Community Development prior to expiration.

SECTION 4: This application will become final and effective thirty (30) days after the date of adoption of this Resolution unless during that time an appeal is taken to Superior Court.

Resolution No. 380
Case No. VAR-14-010
Page Two

SECTION 5: The Secretary shall certify to the adoption of this Resolution and shall transmit a copy to the applicant(s).

ADOPTED and APPROVED this 12th day of November, 2014.

Chairperson, Coconino County Board
of Adjustment

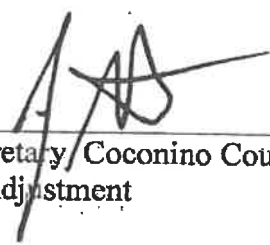
I hereby certify that the foregoing is a true copy of a Resolution adopted by the Board of Adjustment at a regular meeting thereof held on the 12th day of November, 2014, by the following vote of the Board:

AYES: Patterson, Anaya, McCartney

NOES: None

ABSTENTIONS: None

ABSENT: Bearchell



Secretary, Coconino County Board
of Adjustment