



MEMORANDUM

PUBLIC WORKS - DEVELOPMENT SERVICES

DATE: June 4, 2014

TO: BOARD OF ADJUSTMENT District #4

FROM: Tom Drzazgowski – Deputy Chief Zoning Inspector

SUBJECT: **Co10(4)14-05 AHUMADA – EAST WHETSTONE RANCH DR.**
Scheduled for public hearing on July 8, 2014.

LOCATION:

The subject site is located in far southeastern Pima County near where Pima, Cochise and Santa Cruz counties met. The property is located on the south side of Whetstone Ranch Dr. The property is approximately 19.86 acres and the zoning on the property is RH (Rural Homestead).

SURROUNDING ZONING / LAND USES:

North -	RH	Rural
West -	RH	Rural
South -	----	Santa Cruz County
East -	RH	Rural

PUBLIC COMMENT:

To date a letter of objection has been received from the property owner who owns property to the west of the subject. An email of protest from an owner who did not provide their name was also submitted.

PREVIOUS CASES ON PROPERTY:

This case was originally started as a Modification of Setbacks (MSR). During the MSR process a protest was received. The property owner submitted a variance as allowed by the process.

There is also an open code violation on the property. Currently citations have been issued to the owner for structures without permits.

REQUEST:

The applicant requests the following variances:

1. To reduce the minimum side/rear yard setback for a corral from 50 feet to 25 feet.
2. To increase the accessory coverage from 1500 square feet to 3600 square feet.

TRANSPORTATION AND FLOOD CONTROL REPORT:

The Department of Transportation will not review this project. The Flood Control District will review this project as needed during the permit process.

BACKGROUND:

This property is located in an area that can be considered rural. Properties in the area are zoned RH and are located on property that is a minimum of 4.13 acres. Most properties in the area are located on much larger property. The subject property is slightly small then 20 acres. The corrals and barn have already been constructed and are on the property without permits. If the variance is not approved, the structures will need to be removed.

RECOMMENDATION:

Staff recommends **DENIAL** of the variance requests. Staff believes that this is a self-imposed hardship. In addition, two letters of protest have been received. One of the letters is from the property owner who is adjacent to the property and potential the most affected by the request. The building appears to be steel and corrugated metal. This type of design appears to be inconsistent with the area. Given the concerns of neighbors, staff cannot support the request.

Staff believes the property owner should have worked with neighbors prior to construction of the request. If neighbors were provided input into the location of the building they may have been more supportive of the variance request.

Standards that must be considered by a board of adjustment when considering a variance request include:

1. The strict application of the provision would work an unnecessary hardship;
2. The unnecessary hardship arises from a physical condition that is unusual or peculiar to the property and is not generally caused to other properties in the zone;
3. The unnecessary hardship does not arise from a condition created by an action of the owner of the property;
4. The variance is the minimum necessary to afford relief;
5. The variance does not allow a use which is not permitted in the zone by the Code;
6. The variance is not granted solely to increase economic return from the property;
7. The variance will not cause injury to or adversely affect the rights of surrounding property owners and residents;
8. The variance is in harmony with the general intent and purposes of the Code and the provision from which the variance is requested;
9. The variance does not violate State law or other provisions of Pima County ordinances;
10. The hardship must relate to some characteristic of the land for which the variance is requested, and must not be solely based on the needs of the owner;
11. If the variance is from a sign or advertising structure area limitation, no reasonable use of the property can be made unless the variance is granted;
12. If the variance is from a height limitation, no reasonable use of the property can be made unless the variance is granted.

Respectfully submitted,



Tom Drzazgowski
Deputy Chief Zoning Inspector

Albert R. Schenker
PO Box 880
La Luz, NM 88337
June 1, 2014

Pima County Public Works
Development Services Department
Planning Division
Attention: Tom Drzazgowski, Asst. Executive Secretary
201 N. Stone Avenue
Tucson, Arizona, 85701

Response to Case No. C010(4)14-05

This letter is a follow-up to my letter of April 16, 2014 in which I stated my strong objection to granting Mr. Ahumada the Modification of Setback Requirements and Lot Coverage Limits for his property located at 22738 East Whetstone Ranch Road requested in Case No. Co28(4)14-111 AHUMADA-E. WHETSTONE ROAD. The Modifications requested were to increase the maximum lot coverage allowed by accessory structures (barn) to 3,600 square feet and to reduce the rear yard setback for corrals to twenty-five feet (25'). The Pima County Zoning Code chapter 18.13.050A restricts the lot coverage by accessory structures to 1500 square feet or 70% of the area on the largest main building on the lot; chapter 18.13.050C2c requires a 50 foot minimum setback. Mr. Ahumada requested these Modifications because he had already built a 3600 sq. ft. barn and a corral with only a 25 feet setback on this property. His request was denied.

Now in Case No. C010(4)14-05 Mr. Ahumada is appealing that denial and requesting the same two changes for the same property as variances to the Pima County Zoning Code . As the owner of the closest adjacent 5-acre parcel to the Subject Ahumada property, I am the most affected by the decision that will be made by the Pima County Board of Adjustment, District 4 in this matter. I most strongly object to the granting of these variances for this property because Mr. Ahumada's flagrant violations of the Pima County Zoning Code definitely have a significant negative impact on me for the following reasons:

1. When I purchased this property I bought it with the understanding that the property value and aesthetics would be protected by The Pima County Zoning Code which applies to my property as well as adjacent properties and equally protects all concerned from "Loss of Value" due to obstruction of views and encroachment. Having a huge barn that is more than twice the size permitted by the Pima County Zoning Code is a significant visual impairment for my property and restricts the views for which I bought the property. This infringement is definitely injurious to me and my property value.
2. Where I will place my home is directly and adversely affected by the breach of the Pima County Zoning Code by Mr. Ahumada. Sadly, with the current location of the huge barn and corral, in order to preserve some of my mountain views, avoid dust and odors and mitigate noise, I will be forced to locate my home in the area furthest away from existing power and the well which I already had drilled in the place where I planned to build my house. The relocation of the house will result in considerably more expense when I build. Since additional percolation testing may be required, I could incur even further costs. I find it disturbing that the subject parcel is 20

acres and yet both the barn and corral/roping arena were placed in the further most southwest corner of their 20 acres and closest to my eastern boundary.

3. The Pima County Development Services in, "The modification of setback requirements must meet the following standards..." refers to "PROPOSED buildings and structures" in numbers 4, 5, and 6. This indicates that modifications and/or variances to the Pima County Zoning Code must be requested and obtained BEFORE any building or construction can take place. Mr. Ahumada did not request a Modification or Variance before he built his barn and corral that are in glaring violation of the Pima County Zoning Code. He had already built the 3600 sq. ft. barn and a corral with only a 25 setback before his first request for a Modification and this subsequent Appeal.
4. The original Request for Modification and the Appeal are after-the-fact, which indicates to me that these structures were built upon the subject parcel in egregious disregard of the Pima County Zoning Code and Permitting Requirements. If these structures had been properly permitted, the encroachments and size issue would have never happened and they would not now be in violation of the Pima County Zoning Code.
5. Since the auxiliary structure was built without proper permitting, I have additional concerns about the engineering of said structure, and whether it was built to current code specifications. A structure of that size is subject to considerable wind shear and uplift and could pose a danger to surrounding property owners.
6. It is my understanding that both the barn and corral are in the floodplain and not properly designed or elevated to accommodate water flow and could even divert water onto adjacent properties.

In summary, Mr. Ahumada built a huge barn and corral in flagrant non-compliance with the Pima County Zoning Code and Permitting Regulations which resulted in numerous and harmful effects on me and my adjacent property. Now with his request for Modifications, which was denied, and his subsequent Appeal, he is asking in essence for a, "Get Out Of Jail Free Card". That just does not seem right to me.

I am requesting that Mr. Ahumada's Appeal be denied and that he be required to comply with the Pima County Zoning Code by reducing the size of the barn to 1500 sq. ft. and the modifying the corral so it maintains the 50 foot setback from the property line.

I would appreciate your most favorable response to this objection.

Sincerely,

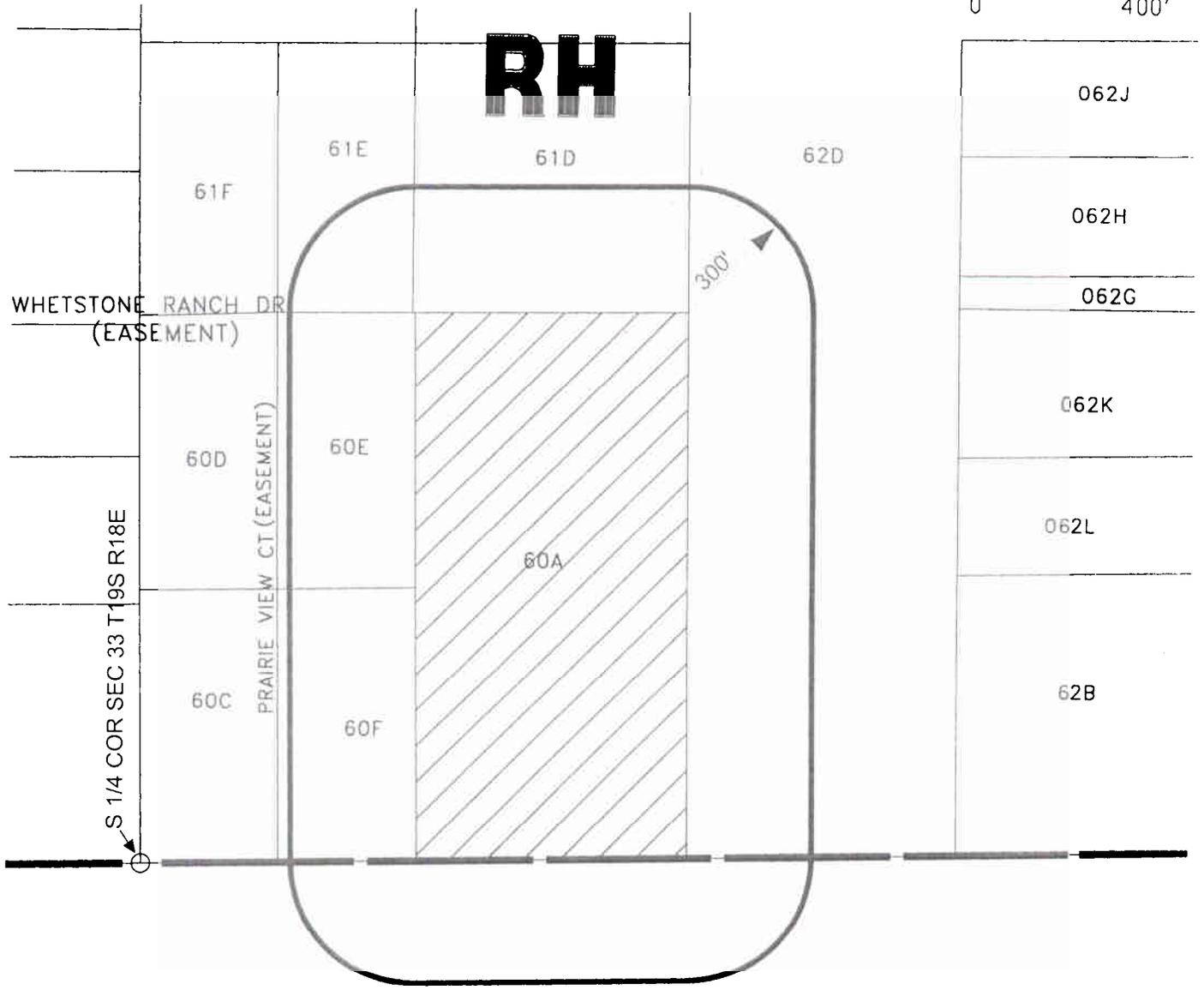
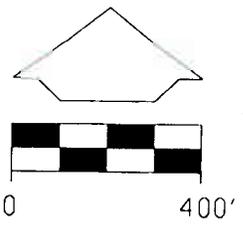
Albert R. Schenker

Thomas Drzazgowski

From: imat59 <imat59@earthlink.net>
Sent: Tuesday, June 03, 2014 9:53 AM
To: Thomas Drzazgowski
Subject: Whetstone Ranch Dr.

Hello Thomas, I am writing this anonymously in fear of retribution from a nearby neighbor who is being challenged on size restrictions and setbacks on his pole building and roping arena. I certainly have no issues with folks erecting outbuildings for farm use, but the size and positioning of these structures are absolutely negligent. I would be in favor of downsizing the 3500 sq. ft. structure and moving it to meet size and setback requirements. Thank you for your consideration.

Sent from my Verizon Wireless 4G LTE smartphone



SANTA CRUZ COUNTY

Petition area

Notification area

BASE MAP DRC

Notes RE: CO28(4)14-11

Tax codes 306-34-060A

Date 05/13/14
 Drafter DS

File no. CO10(4)14-05
AHUMADA
E. WHEATSTONE RANCH DR EASEMENT

PIMA COUNTY DEVELOPMENT SERVICES DEPARTMENT
 PLANNING DIVISION



11/22/2013



11/22/2013



Variance Application

Revised 12/2013

(Please print or type) **NO PENCIL**

Property Owner: DELSOW A. AHUMADA Phone: _____

Owner's Mailing Address: 315 N CAVEALTA City: NOG AZ Zip: 85621

Authorized Representative: GERARDO ANUMENTA Phone: 520 980 6981

Rep's Mailing Address: 401 WILLOW DR City: RICO AZ Zip: 85648

Property Address: 22738 WHETSTONE RANCH DR City: ELGIN Zip: 85611

Tax Code Number(s): 306-34-060A Zone: _____

Does the subject parcel have an active building or zoning code violation? YES

Owner or Applicant's Email Address: GERARDO.CONTRACTOR@GMAIL.COM

I, the undersigned, swear that all the facts in this application are true to the best of my knowledge, that I will appear in person at public hearing to present the request, that I have read and understood the board of adjustment guidelines and procedure for granting a variance, and that I am able and intend to apply for all necessary county permits for construction and use of the property within nine months of receiving an approval of my variance request.

Signature: Gerardo Anumeta Date: 4/30/14

INCOMPLETE APPLICATIONS WILL NOT BE PROCESSED

*****FOR OFFICE USE ONLY*****

East Whetstone Ranch Dr.

Case Title: Co10(4)14-05 Ahumada Co10() _____
OWNER'S NAME - STREET NAME (EX. JONES- E. SPEEDWAY BOULEVARD)

requests a variance(s) to Section(s) 18-13.050A + 0500C of the Pima County Zoning Code which requires _____

REC'D AT DEVELOPMENT SERVICES - PLANNING DIVISION BY MH DATE 4/30/2014

4-29-14

From: Delson A. Ahumada
315 N. Calle Alta
Nogales, AZ 85621

To: Pima County Development Services / Planning Division
Public Works Building
201 N. Stone Ave., 1st floor
Tucson, AZ 85701

ATTN: Board of Adjustment
RE: Activity #: P14BA00032

To whom it may concern:

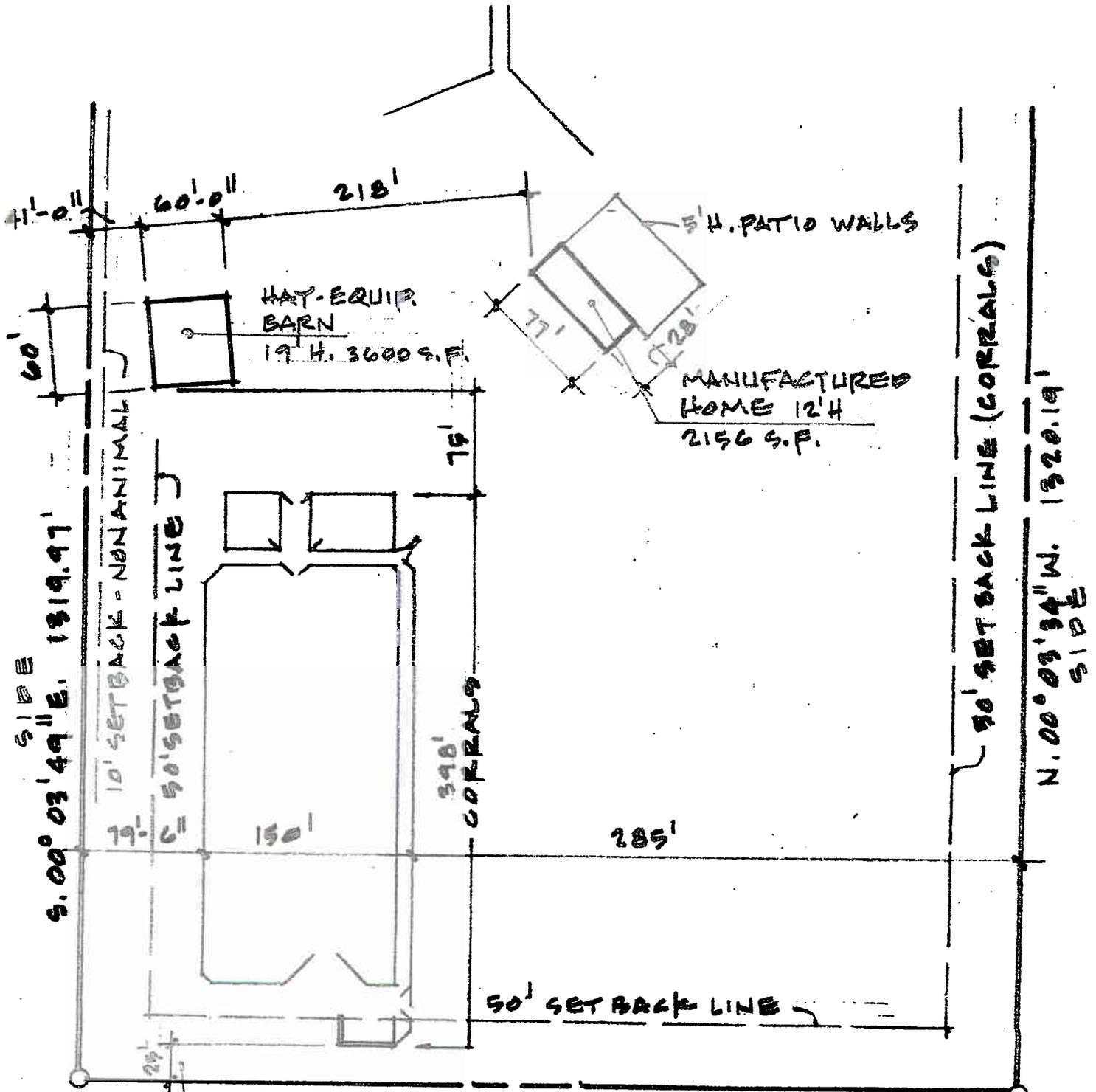
My request for a "Lot coverage increase" is needed to bring my existing hay barn into compliance with the zoning code. The size of my hay barn is required to adequately store hay and my ranch equipment.

Reducing the size of my hay barn to comply with the current zoning code (70% of existing residence or 1500 s.f. max.) would limit the storage area and impose a hardship on my ranching operations.

Thank you for your consideration.

Sincerely,

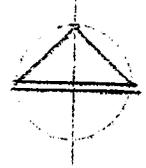
Delson A. Ahumada



N. 87° 54' 35" E. 659.95'

REAR

REDUCE REAR YD. SETBACK FROM 50' TO 25'



ENLARGED SITE PLAN

1" = 100.00'

WHETSTONE
RANCH DR.

FRONT
660.94'

1319.97' SIDE

DRIVEWAY

SIDE

ACCESSORY
STR./BARN

MANUFACTURED
HOME

SEE ENLARGED
SITE PLAN
SHEET # 2

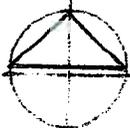
PIMA COUNTY

SANTA CRUZ CO.

659.95'

REAR

CORRALS



SITE PLAN

1" = 200.00'



APPLICATION FOR MODIFICATION OF SETBACK REQUIREMENTS **MSR**

Please print (no pencil) or type

Property Owner: DELSON A. AHUMADA Phone: _____
Owner's Mailing Address: 315 N. CALLE ALTA City: RIO RICO Zip: 85648
Authorized Representative: _____ Phone: _____
Rep's Mailing Address: _____ City: _____ Zip: _____
Property Address: 22738 WHETSTONE RANCH DR. City: ELGIN Zip: 85611
Tax Code: _____ Zone: RH

Specify the setback modification request (identify structure and the proposed setback in feet):

CORRALS REPLACE 50' SETBACK TO 25'
INCREASE PERMITTED COVERAGE FROM 100250 SF TO 360050 SF

I, the undersigned represent that all the facts in this application are true to the best of my knowledge. I am aware that application for building permits must be made within nine months of approval of the Modification of Setback Requirements and that failure to apply for building permits within that time renders the modification approval null and void. I have read and understood the Modification of Setback Requirements guidelines and standards.

Signature of Owner or Representative CSMUTY Date 4/2/18

Email Address of Owner or Representative GEARCONTRACTOR@GMAIL.COM

The following documents are attached: NO PENCIL

- Sketch plan [size 8 1/2" x 11" preferred, maximum 11" x 17"]; NO PENCIL
- County Assessor's map showing the boundaries of the subject property;
- APIQ print out (County Assessor's print out showing current owner of property);
- Letter of authorization for Representative to apply (original signature of owner is required);
- Appropriate fee \$258.00 + 263.00
- Standards Evaluation Form;
- Original signatures of owner or representative (two signatures).

If the Owner or Applicant is submitting signatures of neighboring property owners, please check the appropriate box that best describes the signatures that are provided:

- Applicant is submitting neighbor's signatures and believes all applicable property owners have signed.
- Applicant is submitting neighbor's signatures for some of the required property owners. The applicant understands that property owners whose signature has not been provided will be noticed by Pima County and provided 15 days to protest the MSR.

----- OFFICE USE ONLY -----

Co28 (+) 4.05 AW AHUMADA - W WHETSTONE
(Last name - Direction, Street Name)

Date Received: _____ Received by: _____ (planner's initials)

Affected section of code(s): 18.13.050A + 18.13.050C2C

MODIFICATION OF SETBACK REQUIREMENTS STANDARDS EVALUATION

In the spaces provided below, please explain how the proposed setback modification meets each of the six standards listed in Chapter 18.07.070D of the Pima County Zoning Code. The application cannot be processed without this information. Answer each question using full sentences. You may attach a separate sheet if necessary. **DO NOT USE PENCIL.**

1. Describe how the proposed reduction of setback affects the amount of privacy that would be enjoyed by nearby residences:

SEE ATTACHED SHEET

2. Explain how significant views from nearby properties of prominent landforms, unusual stands of vegetation, or parks would not be affected by this request:

SEE ATTACHED SHEET.

3. Explain how traffic visibility on adjoining streets will not be affected by this request:

SEE ATTACHED SHEET.

4. Describe how drainage from proposed buildings and structures affects adjoining properties and public rights-of-way:

SEE ATTACHED SHEET.

5. Describe in detail the use of structures involved in this request:

SEE ATTACHED SHEET.

6. Explain how the location of proposed buildings and structures, and the activities to be conducted therein, will not impose objectionable noise levels or odors on adjacent properties:

SEE ATTACHED SHEET.

1. **Corrals:** The setback reduction will not adversely affect the privacy of the nearby residences. This is a 20 acre parcel of land and the smallest adjacent parcels are 5 acre parcels. The residences are far apart. The nearest neighbor is approximately 500 ft. distant.
2. These properties are relatively flat, the rolling hills and mountain ranges are approximately 1.5 to 2 miles away. The prominent views are not affected.
3. This is a rural / ranching area with dirt roads. The buildings are not near the roadway and do not affect the traffic visibility.
4. The drainage has not been affected; the site drainage continues to drain to the existing drainage ways. The existing drainage patterns have not been disturbed.
5. 1st. The corrals are used as a roping arena. 2nd The accessory structure (Barn) is used to store hay and farm / ranch equipment.
6. Due to the large acreage and large separation from neighbors any odors, and/or noise levels should not affect the neighbors. The adjacent properties have similar buildings and corrals / pens such as our property.

<p>PIMA COUNTY</p> <p>vs.</p> <p>AHUMADA, Delson A.</p> <p>Defendant</p>	<p>Case No. <u>P13CV00542-1</u></p> <p>ORDER SETTING HEARING</p>
--------------------------------------------------------------------------------------------	--------------------------------------------------------------------------------

The Hearing Officer having been advised that:

___ A plea has been entered in the above referenced case by Delson Ahumada

___ Defendant has failed to appear as required.

IT IS HEREBY ORDERED that a hearing is set for the ___ day of ___,
2014 at **9:30 a.m.** at **Basement Level Conference Room 'C', 201 N. Stone Ave.,**
Tucson, Arizona, in order for the hearing officer to hear the evidence and determine whether or
not there is a violation as alleged in the Zoning/Building Code Enforcement Complain, and to set
sanctions as determined appropriate.

SO ORDERED this 30th day of JANUARY, 2014.

[Signature]
HEARING OFFICER

NOTICE OF RIGHT TO COUNSEL OR OTHER DESIGNATED REPRESENTATIVE: Defendant has the
right to appear and be represented by a designated representative. The designated representative may be an
attorney or any other person **authorized in writing, signed by the Defendant, to act on behalf of Defendant.**
A form available for this purpose may be obtained from the Hearing Officer. Absent extraordinary circumstances,
Defendant's right to be represented by counsel or other designated representative is waived unless notice is given
to the Hearing Officer at 201 N. Stone, Tucson, Arizona, at **last ten calendar days** before the hearing

Copies mailed/delivered to parties by ___ on ___
Sent for service by ___ on ___

JB
Form HO-86-4
REV 09/2010

DEFENDANT: _____

DATE: _____

April 16, 2014
PO Box 880
La Luz, NM 88337

Pima County Development Services-Planning Division
Attention: Elva Pedregó
201 N. Stone Avenue
Second Floor,
Tucson, Arizona, 85701

Response to Case No. Co28(4)14-111 AHUMADA-E. WHETSTONE ROAD

I strongly object to the granting of the modification of setback requirements for this case. I bought the property to eventually build a retirement home on. This infringement will definitely have a negative impact by being too close to the property boundaries.

As the owner of the closest adjacent 5-acre parcel to the Subject Ahumada property, I am the most affected by any decision made by The Planning and Zoning Dept. or Board of Adjustment. I have only recently been made aware that the 3600 square foot auxiliary building and corrals/roping arena has already been built, so this request for a variance is after-the-fact, which indicates to me that these structures were placed upon the subject parcel without regard to Pima County zoning or permitting regulations. If these structures had been properly permitted, then this variance would not be necessary.

When I purchased this property, I was aware that the area was governed by zoning regulations to ensure not only the safety of the public, but the aesthetic appeal of properties in this particular rural zoning. Two of these regulations pertain to setback limits and auxiliary building sizes. Both of these zoning regulations have been violated.

My property value has been diminished as a result of these violations. Where I place my home will be directly affected by these violations. I find it disturbing that the subject parcel is 20 acres and yet both the auxiliary building and corral/roping arena were placed in the further most southwest corner of their 20 acres closest to my eastern boundary.

Sadly with the current locations of the structures, in order to preserve mountain views and avoid dust and odors, I will be forced to locate my home in an area furthest away from existing power and my well which is already in place. Additional percolation testing may be required, resulting in further costs.

Since the auxiliary structure was built without proper permitting I have additional concerns about the engineering of said structure, and whether it was built to current code specifications. A structure of that size is subject to considerable wind shear and uplift and could pose a danger to surrounding property owners.

I would appreciate your most favorable and timely response to this objection.

Sincerely,



Albert R. Schenker

APR 18 2014

TO WHOM IT MAY CONCERN

I AM WRITING THIS IN REGARDS TO THE PROPERTY ON E. WHETSTONE RANCH ROAD IN THE RAIN VALLEY AREA OF SOUTHEAST PIMA COUNTY. RECENTLY, A VERY LARGE METAL BUILDING WAS ERECTED.

THIS BUILDING IS NOT ONLY A HUGE STRUCTURE, IT APPEARS TO BE VERY CLOSE TO THE EASTERN BORDERS OF OTHER PROPERTY OWNERS. SOUTH OF THIS STRUCTURE IS A VERY LARGE ROPING ARENA THAT ALSO APPEARS TO VIOLATE SETBACK REQUIREMENTS.

THESE VIOLATIONS CAN ONLY DIMINISH PROPERTY VALUES, LIMIT THE BEAUTIFUL MOUNTAIN VIEWS, CREATE OBJECTIONABLE ODOORS AND CREATE FRICTION BETWEEN ADJACENT PROPERTY OWNERS.

I'M AFRAID THAT IF THIS STRUCTURE AND ROPING ARENA ARE ALLOWED TO REMAIN WHERE THEY ARE AT, IT WILL ONLY GIVE OTHER PROPERTY OWNERS A "GREEN LIGHT" TO BUILD WHATEVER THEY WANT - WHEREVER THEY WANT.

I AM SENDING THIS NOT ANONYMOUSLY BECAUSE OF THE POSSIBLE REPRISAL AGAINST ME FROM SAID PROPERTY OWNER.

CONCERNED PROPERTY OWNER

APR 23 2014